

RACE AND CRIMINAL JUSTICE IN MONROE COUNTY, INDIANA

2003 REPORT FROM THE MONROE COUNTY RACIAL JUSTICE TASK FORCE

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EXECUTIVE SUMMARY

In March, 2001, the Monroe County Racial Justice Task Force (RJTF) was convened to explore the issue of racial disparity within the Monroe County justice system. The Task Force was developed in response to a February, 2001, report on racial disparity that had been prepared by the Monroe County Branch of the NAACP and the “What Color is Community?” Task Force of the Unitarian Universalist Church (2001 report). The 2001 report analyzed racial disparities in the justice system and issued recommendations to the County, including the creation of a task force. The RJTF is comprised of representatives of the Monroe County justice system, city government, and community members.

Due to the data limitations of the 2001 report, the Task Force felt it necessary to conduct a more comprehensive analysis of arrests and case processing in order to provide more detail and analysis than was possible in the original study. Working with the Monroe County Prosecutor and other court officials, the RJTF obtained data on bookings in 2000 and outcomes for these cases. With the aid of researchers at Indiana University, these data have been compiled to produce the findings contained in this report.

The conclusions of this study are based on an analysis of 966 of the 5,092 bookings in Monroe County in 2000. The 966 bookings consist of all 483 black bookings and 483 white bookings selected randomly for comparative purposes. Highlights of this report include the following:

Assessment of Racial Disparity

Arrests – Blacks constituted 9.5% of all bookings in Monroe County during 2000, about three times their share of the county’s total population. Since there are no county-specific data on involvement in crime (e.g., information on prior criminal history and/or from a victimization survey), we cannot conclusively identify the causes of this racial disparity. However, this study’s data do provide important, if partial, information concerning this disparity: (1) Thirty-seven percent of black bookings, compared to 25 percent of white bookings, were for reasons other than for commission of a new crime, such as failure to appear, probation violation, and court ordered transport; and (2) blacks were 33 percent *less* likely than whites to be arrested and booked through police officer-initiated arrests.

- **Racial Profiling by Law Enforcement?** – An area of concern nationally in regard to racial bias has been the prevalence of racial profiling by law enforcement agencies, including data from some jurisdictions that police are disproportionately targeting black motorists and others. In this area, we find no such disproportionate impact in Monroe County. In fact, 50.2% of the sample of 483 white bookings and arrests, compared to 33.5% of the 483 black bookings and arrests, resulted from officer-initiated actions. Although the high number of alcohol-related arrests for whites contributed in part to this difference, there were still more white arrests (40.8%) than black arrests (30.4%) resulting from police officer-initiated action when alcohol-related arrests were excluded.

Booking Charge Distribution – Whites (55.7%) in Monroe County were considerably more likely than blacks (37.5%) to be arrested for a misdemeanor charge. Blacks were also more likely than whites to be arrested for a felony charge (24.2% vs. 18.2%), for a probation violation (9.5% vs. 6%), and for failure to appear (12.6% vs. 6.2%).

Pretrial detention – Blacks were held in jail more than twice as long as whites prior to release for misdemeanor offenses (7.7 days vs. 2.8 days) and nearly twice as long for felony offenses (40 days vs. 24.6 days).

Charging Decisions – For cases in which a charge was made after booking, there was no significant difference between blacks and whites in the degree to which misdemeanors and felonies were charged. That is, the rate at which prosecutors charged arrests for misdemeanors or felonies as similar offenses did not differ significantly by race.

Pretrial Diversion – Whites charged with misdemeanors were over three times more likely than blacks (26.1% vs. 7.7%) to receive pretrial diversion. The pretrial diversion program is essentially non-discretionary; that is, anyone charged with an eligible offense who meets the criteria for diversion and is able to pay program-related fees is offered the option of the program. However, those who benefit most from the pretrial diversion program are frequently persons charged with alcohol-related offenses (such as illegal consumption and public intoxication) which, in this study, were disproportionately committed by whites.

Sentencing – Our data analysis reveals mixed findings with regard to sentencing disparities. Overall, blacks were slightly more likely than whites to be sentenced to incarceration for both misdemeanors and felonies. Because the mean days sentenced, suspended, and executed are sensitive to one or two cases that might have an extremely low or extremely high value, the mean should be taken in context with the median in interpreting the findings regarding sentencing.

In looking at *median* days of executed sentence, we find blacks served more time than whites but not in all circumstances. For example, for misdemeanor cases with no prior bookings, whites and blacks both served a median of two days, but for those with a prior booking, blacks served a median of six days compared to three days for whites. In looking at *mean* days of executed sentence, we find that for misdemeanor cases with no prior bookings, blacks served a mean of 36.3 days and whites, a mean of 4.7 days. For misdemeanor cases with a prior booking, blacks served a mean of 45.6 days compared to 25.6 days for whites.

For felonies, there were relatively few convictions for A, B, and C felonies, and so while disparities were noted, the small number of cases suggests caution in interpretation. But in examining median and mean days of executed sentence for D felonies, the most numerous, there were significant racial differences both for offenders with no prior bookings and for those with priors. In cases with no prior bookings, blacks served a median of 106 days compared to 2 days for whites, while the mean days served were 191.4 days for blacks and 83.9 days for whites. In cases with prior bookings, blacks served a median of 181.5 days compared to 90 days for whites, while mean days served were 322.8 days for blacks and 164.5 days for whites.

Recommendations

The results of this study show significant racial disparities in several aspects of the criminal justice system in Monroe County. These include disparities in arrests, pretrial detention, pretrial diversion, and sentencing. As thorough as this data analysis is, though, in most of these areas we cannot conclusively assess the extent to which these disparities reflect legally relevant variables or biased decision-making.

The primary significance of the data presented is that it offers local policymakers and practitioners a range of useful information regarding the impact of decision-making and case processing at various stages of the justice system. This information can be used to develop strategies and practices that can contribute to reducing unwarranted racial disparities in the county. Development of such strategies should be based on the following principles:

- Racial disparity can be reduced through the development of sound criminal justice practices that produce appropriate outcomes for all persons in the justice system. Policies to reduce racial disparity should be consistent with sound fiscal policy and promoting public safety.
- In selecting strategies for reducing racial disparity, policymakers should target areas of the justice system where disparities are most significant and, therefore, ones which contain the potential for producing the greatest impact.
- New initiatives should be monitored and evaluated to assess their impact on criminal justice practice overall and on reducing racial disparity.

Specific areas of the justice system to be targeted should include:

Reduce disparities in arrests

- **Reduce disparities in failure to appear rates** – Blacks were two times more likely than whites to be booked for failure to appear for court dates and represented 15% of all such bookings. Local officials should examine this issue with a goal of identifying strategies to improve appearance rates. These strategies may include changes in notification process for court dates, scheduling issues, greater involvement of defense attorneys in notification, and other procedures.
- **Reduce disparities in probation violations** – Blacks constituted 15% of bookings for probation violations in Monroe County and were booked for this offense at a rate 50% higher than whites. Probation officials should assess the reasons for violations, enhance proactive strategies to prevent failure such as increased access to substance abuse treatment programs, increase the use of non-jail options as responses to violations, and monitor the use of discretion by probation officers in responding to violations.

Reduce disparities in pretrial detention – Blacks booked into the jail on misdemeanors were held in jail more than twice as long as whites prior to release and nearly twice as long for felony charges. Since the purpose of bail is solely to assure appearance at trial, local policymakers should explore a variety of options to increase the speed and frequency of pretrial release. This

should include a review of cash bail options and obstacles, the use of release options such as third-party or electronic monitoring, and other methods.

Reduce disparities in pretrial diversion – Whites were over three times more likely than blacks to be admitted to the pretrial diversion program. Since alcohol-related offenses are the most common charge for this program, this policy disproportionately favors whites, who are more likely to be charged with such offenses. Local officials should consider expanding the range of eligible offenses for this option and/or any obstacles to greater participation by blacks in this option.

Reduce sentencing disparities – Blacks convicted of D felonies in particular served considerably more incarcerated time than whites. While there may be legally relevant variables that account for these disparities, court officials should carefully examine such cases to determine the causes. Following this analysis, prosecutors, defense attorneys, and judges should explore a range of sentencing options for such cases with a goal of expanding the use of non-jail options.

Conclusion

Monroe County has many dedicated criminal justice officials and practitioners, many of whom have contributed significantly to the formulation and completion of this study. Over the course of the past two years, it has been clear that there is a real concern about the issue of racial disparity in the criminal justice system and a commitment to reducing unwarranted disparity. We believe that the findings of this study demonstrate that remediable disparities exist and that these disparities can be alleviated through coordinated activities on the part of the entire Monroe County community.

I. INTRODUCTION

In March, 2001, the Monroe County Racial Justice Task Force (RJTF) was convened to explore the issue of racial disparity within the Monroe County justice system. The Task Force was developed in response to a February, 2001, report on racial disparity that had been prepared by the Monroe County Branch of the NAACP and the “What Color is Community?” Task Force of the Unitarian Universalist Church (2001 report). The 2001 report analyzed racial disparities in the justice system and issued recommendations to the County, including the creation of a task force. The RJTF is comprised of representatives of the Monroe County justice system, city government, and community members.

Due to the data limitations of the 2001 report, the Task Force felt it necessary to conduct a more comprehensive analysis of arrests and case processing in order to provide more detail and analysis than was possible in the original study. Working with the Monroe County Prosecutor and other court officials, the RJTF obtained data on bookings in 2000 and outcomes for these cases. With the aid of researchers at Indiana University, these data have been compiled to produce the findings contained in this report. The conclusions of this study are based on an analysis of 966 of the 5,092 bookings in Monroe County in 2000. The 966 bookings consist of all 483 black bookings and 483 white bookings selected randomly for comparative purposes.

This report is divided into seven sections, including Section I, the introduction. Section II includes an overview of racial disparity in the criminal justice system on the national level, as well as the definition, impact and causes of racial disparity. Section III reviews the history of this report: the 2001 report; the creation of the RJTF; the Sentencing Project’s analysis of the 2001 report; and the October, 2001, criminal justice strategy meeting between the RJTF and consultants from the Sentencing Project. Section IV presents and discusses the 2003 study, including study methods and general findings. Section V is a summary of key findings, and Section VI presents recommendations for reducing racial disparity. Section VII is the report conclusion.

II. RACIAL DISPARITY IN THE CRIMINAL JUSTICE SYSTEM

A. Overview

The rapid growth of the criminal justice system in the United States during the past thirty years has ushered in a new era of scrutiny, including new demands for accountability. With issues of crime and justice pervading everyday life, communities have joined law enforcement officers and other agents of the justice system in exploring how these issues affect victims, offenders, and families and the ways in which the justice system responds to their concerns. It is clear, particularly in recent years, that our culture encourages the use of the criminal justice system as a panacea for many concerns. By the end of 2001, a previously unprecedented 1 in 32 U.S. citizens, or 6.5 million, were incarcerated or on probation or parole (Bureau of Justice Statistics, August 2002). The rate of incarceration in the U.S. rose from 1 in every 320 U.S. residents in 1985 to 1 in every 145 at the close of 2002.

Although the rate of growth by any measure is shocking, the numbers for certain populations are even more dramatic. It is abundantly clear that particular groups within the United States have been more affected by the burgeoning system of justice than others. At midyear 2002, most jail

inmates in the U.S. were non-white. Even though blacks represent approximately 12 percent of the population, they accounted for almost 40 percent of jail inmates compared to Hispanics, who constituted also nearly 12 percent of the population and 15 percent of jail inmates. In contrast, whites accounted for 44 percent of jail inmates and 70 percent of the population. Similar disparities exist among the prison population: blacks, 46 percent; whites, 36 percent; and Hispanics, 16 percent. According to the most recent Bureau of Justice Statistics' report, the incarceration rate for whites in jail is 147 per 100,000, compared to a rate of 740 per 100,000 for blacks and 256 per 100,000 for Hispanics (Bureau of Justice Statistics, May 2002).

This growing disparate impact of criminal justice system policies and laws poses extraordinary challenges to a nation which prides itself on equal enforcement of the law guaranteed by its Constitution and to the notion that this system is fundamentally fair and unbiased:

As we enter the new millennium, America has become the most racially diverse and wealthiest nation on the planet. Our gains in economic prosperity, however, are not uniformly shared across society as whole segments of American communities have become marginalized—seemingly unimportant to society at large. One fundamental aspect of this marginalization is the disparate treatment of persons of color which occurs incrementally across the entire spectrum of America's criminal justice system. This disparity, rarely a result of clear-cut decisions to provide unfair treatment, threatens to produce in communities in every city and state an unhealthy and counterproductive distrust of the criminal justice system. And a society that cannot trust its institutions to protect the people and treat them fairly cannot effectively control the crime that we rightly fear. *Reducing Racial Disparity in the Criminal Justice System—A Manual for Practitioners and Policymakers*, The Sentencing Project, 2000, p.

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B. Definition, Impact and Causes of Racial Disparity¹

1. Definition of Racial Disparity

Racial disparity in the criminal justice system exists when the proportion of a racial/ethnic group within the control of the system is greater than the proportion of such groups in the general population. The causes of such disparity may be varied and include differing levels of criminal activity, law enforcement emphasis on particular communities, legislative policies, and decision making by criminal justice practitioners who exercise broad discretion in the justice process.

Illegitimate or unwarranted racial disparity results from the dissimilar treatment by the criminal justice system of similarly situated people based on race. In some instances this may involve overt racial bias, while in others it may reflect the influence of factors that are only indirectly associated with race.

There are four key aspects to addressing racial disparity in the criminal justice system:

¹ The following narrative is adapted, with permission from The Sentencing Project, from *Reducing Racial Disparity in the Criminal Justice System-- A Manual for Practitioners and Policymakers*, pp 2-10.

- The problem of racial disparity is one which builds at each stage of the criminal justice continuum of arrest through parole, rather than the result of the actions of any single agency.
- In order to combat unwarranted disparity, strategies are required to tackle the problem at each stage of the criminal justice system, and to do so in a coordinated way. Without a systemic approach to the problem, gains in one area may be offset by reversals in another.
- Each decision point and component of the system requires unique strategies depending on the degree of disparity and the specific populations affected by the actions of that component.
- Systemwide change is impossible without informed criminal justice leaders who are willing and able to commit their personal and agency resources to measuring and addressing racial disparity at every stage of the criminal justice system, and as a result, for the system as a whole.

Addressing racial disparity in the criminal justice system is entirely consistent with a commitment to public safety and to a fair system of justice. If unwarranted racial disparities can be reduced, the justice system will gain credibility and serve a more effective role in preventing and responding to crime.

2. The Impact of Racial Disparity

Statistics from communities and the nation as a whole show evidence of the impact of racial disparity at all levels of the criminal justice system. Disparities have a cumulative effect, whereby decisions made at one stage of the system contribute to increasing disparities at the following stages. Disparities in the system can be seen in the following:

- The widely-discussed phenomenon of “driving while black” illustrates the potential abuse of discretion by law enforcement. Traffic stops recorded on Interstate 95 in Maryland over a two-year period revealed that African Americans represented 70 percent of drivers stopped and searched by police, while only 17.5% of all drivers – as well as speeders – were black.
- A New York state study found that minorities charged with felonies were more likely to be detained than whites. The researchers concluded that 10% of minorities detained in New York City and 33% in other parts of the state would have been released prior to arraignment if minorities were detained at the rate of comparably situated whites.
- 46% of prison inmates and 40% of jail inmates are African American, compared to their 12% share of the overall population.
- Hispanics constitute 16% of the prison population and 15% of the jail population, compared to their 12% share of the population.
- A black male born in 1991 has a 29% chance of spending time in prison at some point in his life, a Hispanic male 16%, and a white male 4 %.

In a recent book, *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* (2002), Marc Mauer and Meda Chesney-Lind reveal how two million imprisoned Americans and their families—of which disproportionately high numbers are blacks and other minorities—are being punished by factors that extend beyond incarceration. This “invisible punishment”—in part the result of “get tough on crime” laws that may well have backfired—has created a plethora of obstacles for both incarcerated and returning inmates: denial of welfare benefits for even minor drug-related offenses; employment and housing restrictions; loss of voting rights; disqualification from public housing, job training, and student loans; as well exposure to fatal

diseases.

Racial disparity challenges the basic values upon which the criminal justice system rests. To the extent that such disparity is a result of racism (that is, discrimination based on race), it represents an outright rejection of the principle of equal justice. A commitment to values of justice, fairness and public safety compels professionals to vigorously address disparate treatment when and where it exists. A sense that the criminal justice system is fair is essential to the functioning of a democratic society.

3. The Causes of Racial Disparity

There are specific ways in which racial disparities may result from decision-making at various points in the criminal justice process, and steps can be taken by criminal justice practitioners to counter those effects. These decision-making points provide an opportunity for professionals to ensure that a person of color is treated fairly. It is important to recognize that the criminal justice system operates within a larger social and political context that affects both its operation and the position of racial minorities as they come into that system. Criminal justice professionals have the capacity to counter disparity in several ways: as citizens they can seek to influence the political process; as professionals they can work together for systemic change; as decision makers they can exercise discretion to offset the impact of racial disparity, whether it results from a larger social or political context or previous decisions within the system. Thus, criminal justice professionals will find an awareness of the wider social context advantageous in developing strategies to ensure that their decisions within the system help reduce racial disparity.

The wider social and systemic causes of racial disparity include: higher crime rates, inequitable resources, legislative decisions, and overt bias.

- **Higher Crime Rates:** Racial data for the commission of crime is unavailable as most crime is not reported, and the perpetrators remain unknown. The most extensive statistics available are for the race of people arrested. Victimization surveys in which victims identify the perpetrators of crime are consistent with arrest data for many offenses. Arrest rates for some offenses suggest that African Americans are disproportionately involved in particular types of crime. For example, for 2001, about 38% of arrests for violent crime and about 31% of arrests for property crime were of African Americans.

However, when looking at arrest rates it is important to remember the context in which arrests are made. Arrest rates are essentially an indicator of police activity in clearing crimes reported to them and crimes they observe themselves. Thus, they reflect the frequency with which crimes are reported, police decisions regarding offenses on which they will concentrate their attention and their resources, and the relative vulnerability of various crimes to arrest. Despite these limitations, crime statistics are consistently used as a measure of the degree of offending among different groups in the population.

Issues of both race and class impact the likelihood of involvement with the criminal justice system and treatment within the system. Poor people generally are over-represented at every stage of the criminal justice system, and people of color are also disproportionately poor.

Policing policies which take a zero-tolerance approach to minor violations of law have been disproportionately targeted at inner-city black and Hispanic populations. Policy and practice regarding plea negotiations and sentencing are shaped by public opinion, defendants' access to resources for effective defense, as well as their access to alternative means of treatment and problem-solving. Therefore, the fact that official statistics consistently show poor and minority persons to be overrepresented among those arrested and convicted by the system must be tempered by the realization that these groups are the ones most lacking in the resources needed to avoid arrest and criminal justice punishment.

Further, individuals and communities with access to resources generally employ an approach to dealing with behavioral problems outside the juvenile and criminal justice systems. For example, middle class parents who have a child who is disruptive in school or engages in delinquent acts will explore the contributory role of learning disabilities, psychological problems or substance abuse with appropriate social service or health care professionals. They will engage private tutors, counseling and therapeutic services to remedy the problems they find. In the event of an arrest, they will typically deploy as many resources as possible as an alternative to further involvement in the juvenile or criminal justice systems.

The apparent overrepresentation of African Americans and other minorities involved in crime does not fully explain their overrepresentation in America's jails and prisons:

- In an examination of the overall racial composition of the 1991 state prison population, criminologist Alfred Blumstein concluded that 76% of the higher black rate of imprisonment could be accounted for by higher rates of arrest for serious offenses.² The remaining 24% of disparity, Blumstein stated, might be explained by criminal histories and other factors such as racial bias.
- While these statistics held true for most crimes, the critical exception was drug offenses. African Americans constituted 15% of drug users in 1998,³ only slightly higher than their percentage in the population. However, African Americans represent 37% of those arrested for drug offenses, 53% of drug convictions, and 56% of drug offenders in prison.⁴
- A related examination of incarceration data by leading sociologists found that while national level data seemed to show a high correlation between arrest rates and incarceration for African Americans, the variation in this relationship at the state level was quite significant.⁵ In the northeast states, only 69% of racial disparity in incarceration was explained by arrest, while in the north central states, fewer blacks were

² Alfred Blumstein, "Racial Disproportionality of U.S. Prison Populations Revisited," *University of Colorado Law Review*, Vol. 64, No. 3 (1993).

³ *Summary of Findings from the 1998 National Household Survey on Drug Abuse*, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (1999).

⁴ These figures from the Department of Justice are for different years: use-1998; arrests-1998; convictions-1996; inmates-1997.

⁵ Robert D. Crutchfield, George S. Bridges, and Susan R. Pitchford, "Analytical and Aggregation Biases in Analyses of Imprisonment: Reconciling Discrepancies in Studies of Racial Disparity," *Journal of Research in Crime and Delinquency*, 31 (May, 1994).

actually incarcerated than one would have predicted by just using arrest data.

Overall, these data suggest that a variety of factors, which include crime rates, law enforcement practices, and sentencing legislation, play a role in the degree of racial disparity in incarceration.

Another factor that may explain rates of incarceration is the criminal history of an offender. The more serious a prior criminal record, the greater the likelihood of receiving a prison term for a new offense. Whether one acquires a criminal record is clearly in part related to the level of criminal activity, but is also a function of race, geographic location and other factors. Disruptive and misbehaving youth from middle class neighborhoods have fewer arrests than similar youth from neighborhoods whose principal resources are the juvenile and criminal justice systems.

These factors may be compounded by law enforcement and criminal justice policies. For example, the disproportionate incidence of arrests of minority drivers for the “offense” of “driving while black” in recent years demonstrates the racial profiling through which members of minority groups may be more likely to enter the criminal justice system than similarly situated white drivers. This may result in a disproportionate number of blacks being arrested for non-violent drug crimes and acquiring a criminal record, as well as the sense of anger and humiliation which brought this practice to public attention.

A recent study of juvenile arrest, detention and incarceration rates found that, even adjusting for criminal history and seriousness of offense, minority youth were more likely than white youth to be detained, formally charged, transferred to criminal court and incarcerated.⁶ Having established a criminal record at an early age, both the likelihood of their future involvement in the system and the likelihood of receiving harsher punishments are increased. Another study has documented the complex interaction among several variables – race, sex, age and employment – in contributing to disparities.⁷

If law enforcement resources are heavily focused in poor neighborhoods, if public safety strategy is limited to arrest and prosecution, if the indigenous organizations in the community are denied a voice in deciding how these problems should be addressed, and if there is seriously insufficient commitment of economic, educational and social service resources that might provide assistance and hope to the residents, this dimension of the racial disparity problem will simply grow worse.

- **Inequitable Access to Resources:** Discussions of race and the criminal justice system are often heavily overlaid with considerations of class as well. Racial disparities are related in part to the volume of crime committed by various groups, but are also a function of differing forms of treatment that relate to the background and resources of the offender.

⁶ Eileen Poe-Yamagata and Michael A. Jones, *And Justice for Some: Differential Treatment of Minority Youth in the Justice System*, Building Blocks for Youth, April 2000.

⁷ Cassia Spohn and David Holleran, “The Imprisonment Penalty Paid by Young, Unemployed Black and Hispanic Male Offenders,” *Criminology*, Vol. 38, No. 1, 2000.

Analyses of youthful offending suggest that while criminal behavior cuts across race and class lines, the societal response to these behaviors may significantly influence the course of a potential criminal career.⁸ Decisions regarding the most effective balance of responses by law enforcement, social services, and community intervention are critical in determining many of the outcomes. These often reflect broad policy decisions regarding economic investments in particular communities, provision of adequate educational and employment opportunities, and access to health care and treatment programs. As discussed above, the inequitable access to resources can result in very different outcomes for middle class and poor children with similar behavioral problems.

Once the decision has been made to rely on the criminal justice system as the primary response to social problems in poor minority communities, the day-to-day actions of practitioners are constrained by that decision. For example, police make more drug arrests in low-income neighborhoods because those communities are not provided with other options for dealing with drug problems.

Within the criminal justice system the allocation of resources can have a compounding effect on defendants as they move through the system. This can manifest itself in some of the following ways:

- Bail and pretrial release screening instruments and release policies may have biases toward middle class values and resources - for example, an early release system that utilizes electronic monitoring which requires a telephone in the home will eliminate this pretrial release option for impoverished defendants.
 - Prior to sentencing, resources necessary to treat addictions, consult with psychologists, or hire expert witnesses and investigators are often unavailable through public funding and so multiply the disadvantages for indigent defendants of any race. Public defenders with high caseloads may not be able to develop individualized alternative programs or sentencing options.
 - A defendant who comes to court for sentencing directly from lock-up may be disheveled or angry, and viewed as a prisoner. Another defendant who has the resources to avoid pretrial detention will arrive well dressed and may be able to show a record of seeking treatment or other services prior to trial. These differences can lead to post-conviction disparities, where the “prisoner” remains in prison, and the “free” defendant remains free.
- **Legislative Decisions:** Legislatures at the federal, state and local levels literally create the criminal justice system by passing laws that define prohibited behavior, the penalties to be imposed for violating those laws, and the processes by which cases are to be disposed and sentences are to be determined. Many drug laws have a disproportionate impact on minority communities, which could have been foreseen before the laws were passed.

For example, by significantly increasing penalties for drug trafficking,⁹ especially for trafficking in crack cocaine, while lowering the weight of the drug required for charging

⁸ See, for example, Delbert Elliot, “Serious Violent Offenders: Onset, Developmental Course, and Termination - American Society of Criminology 1993 Presidential Address,” *Criminology* 32, No.1, 1994.

⁹ In Indiana, there are no differences in criminal penalties between offenses for crack and powder cocaine.

felony possession with intent to sell, and mandating imprisonment for such a conviction, legislative drug policy has heavily affected minority communities. Moreover, given the nature of the crack versus cocaine marketing system, it should have been obvious that enforcement efforts would concentrate on the former rather than the latter, and that the crack markets were more visible and vulnerable in the neighborhoods of the minority poor.

Identifying these predictable effects of lawmaking could result in the development of different responses currently and in the future. Representatives of the communities most likely to be affected should also be actively engaged in decision making that takes into consideration the following responses:

- Reasonable distinctions between minor and major drug offenses.
- A range of responses to minor offenders like drug treatment.
- The discretion required to distinguish high and low level drug offenders should be left to the courts which can explore the actual circumstances of the offense and the histories of the offenders.
- Public financing, committed in enormous amounts to policing and corrections, should be provided for education, prevention, and treatment programs in the communities where the drug problem is most pronounced.

The political furor over crime during the last fifteen years has driven legislatures to pass ever-more punitive laws resulting in enormous growth in prison and jail populations. The majority of inmates are people of color, and, as a whole, they have been offered little in the way of training, education and meaningful drug treatment during periods of incarceration. This enormous increase in the use of jails and prisons has taken place without persuasive evidence indicating that incarcerative strategies are the only, or even the most effective, approach to controlling crime.

This suggests the need for legislatures to treat proposed criminal legislation with the same care many now accord to other legislation such as laws that will affect children's education or the environment. Thorough legislative impact analyses would identify probable disproportionate racial impacts and signal the need to seek alternative problem-solving strategies to eliminate or significantly lessen such effects. Indeed a *requirement* to perform such analyses would slow the legislative rush to simple punishment, provoke a more deliberative strategy development process, and encourage extensive and effective use of the range of public and private resources for assuring public safety

- **Overt Bias:** So long as racism exists within society at large, it will be found within the criminal justice system. Racism fuels the overt bias which can show in the language, attitude, conduct, assumptions, strategies and policies of criminal justice agencies. Instances of overt bias can lead in turn to the improper use of discretion which contributes to problems of unwarranted racial disparity. Certainly, in the past two decades, much of the overt racist language and attitudes once common in many parts of the system are now considered out of bounds and have all but been eliminated in public settings. However, out of the ear of the public, racism may still flourish behind the scenes. The need to address racism wherever it manifests itself is a key and basic component in reducing unwarranted racial disparity.

Bias in the criminal justice system may take many forms. In policing, it can manifest itself in police-community interactions and the degree of respect and consideration that law enforcement displays to the public. In the courtroom, the way in which minority defendants or attorneys are addressed can communicate attitudes suggesting second-class status. Prison officials' interactions with families of inmates can also either aid in community-building or increase levels of resentment.

Criminal justice practitioners, like others, are likely to identify with those who look and act like them. Thus, judges and prosecutors may be more receptive to consideration of pretrial or sentencing options for defendants with whom they feel some connection. This is likely to hold true for all racial and ethnic groups. Understanding these dynamics reinforces the need to maintain a diverse and representative system of justice so as to more equitably meet the legitimate needs of all persons in the system.

Many observers suggest that overt bias in criminal justice decision-making has declined dramatically in the last couple of decades, and that racial disparity is essentially a consequence of policies, strategies, and decisions that unintentionally and indirectly produce disparate effects. While much of the research that has been conducted in the recent past tends to support that belief, racist attitudes persist among some people in all American institutions. For example, the U.S. Supreme Court recently set aside the death sentence in a Texas case in which the offender's Hispanic origin had been presented by the state as an indicator of likely "future dangerousness" -- an aggravating factor pointing to death rather than life in prison as the appropriate punishment. An audit by the Texas attorney general's office found eight other cases that "may be similar" regarding testimony in capital punishment sentencing of blacks and Hispanics.¹⁰

Guarding against such racist attitudes among criminal justice operatives is especially important, both because of the expectation that they must always act justly, and because they are so often called upon to exercise coercive authority over the citizenry. Therefore, there can be no relaxation of training in human relations, of orientations to the cultures and subcultures of the people with whom the criminal justice agents interact daily, and of supervisory oversight designed to detect and correct bias.

¹⁰ *Saldano vs. Texas*, 99-8119. Texas Attorney General's office, quoted by the Associated Press, June 5, 2000.

III. HISTORY OF “RACE AND CRIMINAL JUSTICE IN MONROE COUNTY, INDIANA: 2003 REPORT FROM THE MONROE COUNTY RACIAL JUSTICE TASK FORCE”

A. “Race and Criminal Justice in Monroe County, Indiana,” Feb, 2001

The present study was catalyzed by the report, “Race and Criminal Justice in Monroe County” (2001 report). This report was released by the joint committee of the Monroe County Branch of the NAACP and the “What Color is Community?” Task Force of the Unitarian Universalist Church in Bloomington, Indiana, in February, 2001 (See, Appendix A). The 2001 report detailed a study conducted by the joint committee during the year 2000. The primary purpose of this NAACP-UU study was to determine whether average sentences for blacks in Monroe County were longer than for whites. Underlying this primary purpose was an acknowledgment by the joint committee of “a widely held perception, especially in the Black community, that Blacks are sentenced to longer terms of incarceration than Whites in Monroe County.”

Utilizing information from booking logs of the Monroe County jail and data retrieved from the computerized chronological case summaries (CCS), the joint committee reviewed all black bookings and their CCS summaries, along with an equal number of bookings and CCS entries of randomly selected white defendants, for a time interval of 13.5 months during 1997 and the first six weeks of 1998. From the data collected, the joint committee “computed the average executed sentence overall, by each class of crime charged, and by the sentencing court, for both racial groups” (2001 report, p. 2). In its executive summary, the committee identified the following results:

- Blacks were arrested and jailed more than three times as frequently as Whites.
- Blacks were disproportionately prosecuted for A and B felonies, which led to overall longer sentences for Blacks.
- No evidence of bias against Blacks in sentencing was found.

The committee also observed that “of 522 Blacks arrested and booked, [the committee] found prosecutions in the Court records of only 179” (2001 report, p. 4). The joint committee recommended:

- Recording easily accessible racial data in court records
- Studying racial profiling in Monroe County
- Creating a task force to end racial discrimination in the Monroe County criminal justice system

B. Creation of the Monroe County Racial Justice Task Force, March, 2001

In response to the 2001 report’s recommendations and an ensuing community discussion over its findings, the Monroe County Racial Justice Task Force (RJTF) was created to further explore issues of racial disparity within the Monroe County justice system. The RJTF was comprised of representatives from: (1) the Monroe County justice and law enforcement system, including the prosecutor's office, the judiciary, the court system, and the sheriff's office; (2) city government and law enforcement, including the mayor's office and the city police department; and (3) the

community, including the NAACP, the “What Color is Community?” Task Force, the joint committee, IU faculty members, and other individuals identified as important contributors to the Task Force.

There was significant debate among RJTF members regarding the 2001 report’s findings. Questions arose regarding the research methodology and statistical analyses employed by the researchers; the validity and reliability of the collected data and the conclusions based on that data; the limited nature of the collected data (files from the prosecutor’s office were not available to the joint committee during its study); and the questioned assumption that racial disparity automatically denoted racial discrimination. In May, 2001, the RJTF submitted a request for technical assistance from The Sentencing Project (TSP), a national leader in the development of alternative sentencing programs and the reform of criminal justice policy. This request specifically sought TSP’s expertise in evaluating the 2001 report and identifying strategies and “best practices” for preventing and/or reducing racial disparities—or the perception of racial disparities—in the Monroe County criminal justice system.

On June 28, 2001, Marc Mauer, Assistant Director of TSP and author of *Race to Incarcerate (1999)*, contacted the RJTF, offering “consulting and analytical services to aid the Task Force in addressing issues of racial disparity.” Included in this offer of services was a prospective analysis of the 2001 report, as well as site visits with the RJTF. The TSP also provided the RJTF copies of its recent publication, *Reducing Racial Disparity in the Criminal Justice System—A Manual for Practitioners and Policymakers*. (“manual”). The purpose of the manual “is to present information on the causes of racial disparity and to examine what players in the justice system can do to reduce disparity at each decision point in the criminal justice process, understanding that the disparity is symptomatic of problems in society as a whole” (p. 1).

C. “The Monroe County, Indiana, Report on Race & Criminal Justice: Comments and Implications,” Sept, 2001

In September, 2001, Marc Mauer and Dennis Schrantz of TSP submitted to the RJTF an analysis of the 2001 report entitled, “The Monroe County, Indiana, Report on Race & Criminal Justice: Comments and Implications.” (“analysis”) This analysis noted: “Assuming that the data collected are accurate, the Report appears, overall, to be sophisticated and thoughtful and it appears that the authors have produced a report that fairly and reasonably analyzes available data and assesses its meaning” (p. 1). Mauer and Schrantz acknowledged that the data collected were insufficient to determine “the degree to which disparities reflect patterns and processes within the criminal justice system or higher rates of criminal activity” in Monroe County (p. 2). The TSP consultants also noted that to analyze accurately the issues of crime rates versus criminal justice system bias with respect to arrest and sentencing patterns, one would also need to conduct “an extremely costly victimization survey” as well as to study “the role of prior criminal history in sentencing outcomes,” respectively.

Mauer and Schrantz also commented that the arrest “disparities observed in Monroe County mirror those found nationally, although they are greater in scale.” The TSP consultants noted that it would be “difficult, though, to draw comparisons to national trends because such a wide range of factors may contribute to these outcomes, including but not limited to higher crime rates, inequitable access to resources, state legislative branch policies and overt bias” (p. 2).

Nevertheless, they did state that, notwithstanding the lack of proof that racial disparities identified in the 2001 report were the result of racial discrimination or bias in the Monroe County criminal justice system, the fact that blacks were overrepresented in the system warranted further attention, study, and the development of remediation efforts by the Monroe County community: “Such a high level of arrests has negative consequences for young black males because an arrest record can seriously decrease positive opportunities for personal and professional growth. When a high proportion of the African American community is subject to arrest, a logical result is the eventual erosion of trust between law enforcement and the black community that is essential for effective crime control” (p. 7).

Mauer and Schrantz further commented in the analysis that in “examining these issues it should be clear, of course, that the goal of any changes in policy and practice should be to have a positive impact *both* on public safety and on reducing unwarranted racial disparities” (p. 6).

D. Site Visit and Criminal Justice Strategy Meeting, Oct, 2001

Seventeen members of the RJTF met with TSP consultants, Marc Mauer and Dennis Schrantz, for an all-day criminal justice strategy meeting in City Council Chambers in Bloomington, Indiana on October 26, 2001. The purpose of this meeting was to review TSP’s analysis of the joint committee’s Report, to strategize on developing policy and programmatic changes in various components of the criminal justice system, and to establish a time frame for consideration and implementation of changes. The meeting agenda included, among others, the following items: an assessment of racial disparity in Monroe County in national perspective; an overview of the 2001 report; and a facilitated discussion of areas where strategies could be developed to respond to documented racial disparities.

The RJTF engaged in significant discussion regarding identified limitations of the data collected by the joint committee from its two sources, the booking logs of the Monroe County jail and the chronological case summaries from the Monroe County Justice Building. Meeting participants noted that, without access to prosecutorial files, the joint committee was unable to collect information that might shed light on areas of concern raised by the Report and TSP’s analysis. One example cited by participants during the meeting addressed the Report’s finding that, of 522 bookings of blacks during 1998, the joint committee had found that charges were filed “against only 1/3 (179) of Blacks who were booked” (2001 report, p. 7). Several participants suggested that this finding was likely inaccurate and that access to prosecutorial files would reveal that a greater number of charges had, in fact, been filed and that many of these bookings-without-charges were attributable to cyclical bookings, such as failure to appear, court ordered transport, and probation violations. (The present study does in fact document that these suggestions were fairly accurate; see, Section IV. B.)

After much discussion, the RJTF reached an agreement to conduct a new study of year 2000 bookings and case processing for all blacks and an equal number of whites. The Monroe County prosecutor agreed to provide access to all files included in the study, thereby laying the foundation for collection of more data. A newly-organized RJTF study committee agreed to meet shortly after the strategies meeting to organize and develop study parameters. Mauer and Schrantz agreed to provide consultation assistance to the study committee as it conducted the second study.

IV. MONROE COUNTY RACIAL JUSTICE TASK FORCE STUDY, 2001-2003

A. Study Methods¹¹

This study draws its sample from 966 of the 5092 bookings recorded in the Monroe county jail in 2000. The 966 bookings consist of *all* 483 black bookings and 483 white bookings, which were selected randomly for comparative purposes.

Each case in this study begins with a jail booking, which is followed through to its termination. First, every booking where an individual's race was entered as black by jail staff was selected for the study. Then, an equal number of white bookings was selected randomly. Therefore, all black bookings in 2000 are compared to a random sample of an equal number of white bookings. The distribution of bookings per month is offered in Table 1.

Table 1. Year 2000 bookings and sample by month

Month	Bookings	% of total	Total white bookings	Total black bookings	Bookings studied
January	375	7.4	320	38	76
February	375	7.4	328	33	66
March	429	8.4	363	35	70
April	463	9.1	390	54	108
May	396	7.8	331	43	86
June	416	8.2	355	36	72
July	405	8.0	337	48	96
August	413	8.1	371	27	54
September	525	10.3	464	43	86
October	446	8.8	388	40	80
November	472	9.3	405	45	90
December	377	7.4	314	41	82
Total	5092	100	4366	483	966

The jail booking logs provided the name, age, marital status, booking and release date, booking charge, and jail number for each booking. The remaining data collected for this study were gathered from the Monroe County Prosecutor's files.

Of the 966 bookings examined in this study, 560 resulted in a new misdemeanor or felony charge filed by the prosecutor. Because files for cases that were pending or had been redocketed were not available, they are not included in the felony and misdemeanor count. Table 2 demonstrates the distribution of cases filed by race. While Table 2 presents the distribution of cases that resulted in a formal charge, Table 3, in contrast, provides an overall picture of booking charges. As Table 3 demonstrates, there were 298 black misdemeanor and felony bookings and 357 white misdemeanor or felony bookings. Of these misdemeanor or felony bookings, 31 black bookings and 23 white bookings with a misdemeanor or felony booking charge did not result in a formal

¹¹ See, Appendix B, p. 49, for a detailed explanation of study methods.

charge by the prosecutor’s office (see, Table 2). However, the incident numbers associated with those bookings did allow information on the agency, depiction of race in the police report, and initial complainant status to be gathered from the police reports, which are maintained in the records of the prosecutor’s office. Finally, 18 files for black cases and 8 files for white cases could not be located or were otherwise not available during the time of this study.

Table 2. Type of case filed by prosecutor

Case Filed	Black		White	
	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>
Misdemeanor	166	55.7	257	72
D Felony	45	15.1	50	14
C Felony	18	6	6	1.7
B Felony	9	3	4	1.1
A Felony	3	1	2	.6
Pending/redocketed	8	2.7	7	2
No file available	18	6	8	2.2
No charge	31	10.4	23	6.4
Non misdemeanor/felony bookings	185	----	126	----
Total	483	100	483	100

B. General Findings¹²

Black bookings constituted 9.5 percent of all bookings in Monroe County for the year studied. However it should be stressed that each booking is the unit of study for this project, which means that we should also note the number of individuals those bookings represent. The population of 483 black bookings represents 327 individuals, while the sample of 483 white bookings represents 468 individuals. Whereas every black individual booked is included in this study, with some individuals representing multiple bookings, every white individual booked had an equal *chance* of being included in this study. Of the total Monroe County jail bookings in 2000, jail log information indicates 4366 of those bookings were of white individuals, 85.7 percent, and for the remaining 243 bookings, another race, besides by black or white, was recorded.

1. Demographics

The gender distribution by race for bookings in this study was similar: 85.5 percent (n = 413)¹³ of black bookings were male and 14.5 percent (n = 70) female, while 83.6 (n = 404) percent of white bookings were male and 16.4 percent (n = 79) were female. Blacks in this sample were more likely to be single, 76.8 percent (n = 371), than their white counterparts at 65.8 percent (n = 313). The percentage of bookings made up of divorced whites in this sample, 14.7 percent (n = 70), was higher than the percentage of blacks that were divorced, 4.6 percent (n = 22). The percent of married individuals was relatively stable for both groups given the differences between single and divorced. Just under 17 percent (n = 80) of whites were married at the time of booking, and almost 15 percent (n = 70) of blacks were married.

¹² See, Appendix C, Glossary, for an overview of “Monroe County Criminal Justice Procedures and Terms,” p. 51, and an explanation of “Statistical Concepts: Means and Medians,” p. 53.

¹³ Throughout this report, the use of the term “N” denotes number of cases.

The median age for both groups was 27, with a mode of 21. Most bookings for both the black and white groups were of individuals residing in Monroe County. A higher percentage of black bookings, 79.7 percent (n = 177) were residents of Monroe County compared to 70.9 percent (n = 214) of white bookings. The higher percentage of white bookings for Indiana residents with a permanent address outside of Monroe County as compared to black bookings, 23.2 percent (n = 70) and 12.2 percent (n = 27) respectively, may be skewed by Indiana University students. There were no means available for determining which cases were related to IU students. However, the Registrar's Enrollment Report for the 2000-2001 school year, around the time of this study, indicates that for that year 3.9 percent of the enrolled students at IU were black, a percentage very similar to that for the county as a whole.

2. Arrests/Jail Bookings

Table 3 presents the distribution of booking charges by race as well as by the average number of days between booking and release for each type of booking.

As discussed in the previous section on causes of racial disparity, an evaluation of bookings, like arrests, is more an examination of police activity with regard to clearing crimes known to the police than it is a measure of commission of crime by race of the offender. To be known to the police, a crime must either be detected or observed; it is important to keep in mind that visibility of both the crime and the offender is a factor in detection, observation, and arrest. Since most crimes are not reported to the police, these crimes escape official counts.

Victimization surveys, which ask respondents about their experiences with crime in some specific timeframe, can delve further into criminal acts that may not draw the attention of law enforcement. However, such studies are costly and time-consuming, exceeding the resources available in this effort. Therefore, we cannot speak to whether or not blacks in Monroe County commit more crime or more serious crime than whites. However, we can discern that there are important differences between blacks and whites based on the types of crimes for which each population tends to be booked into jail.

Table 3. Booking charge distribution

Booking Charge	Black			White		
	N	Percent	Mean days btw booking and release	N	Percent	Mean days btw booking and release
Misdemeanor	181	37.5	7.7	269	55.7	2.8
Felony	117	24.2	40	88	18.2	24.6
Probation Violation	46	9.5	31.5	29	6	33.5
Serve Time/Contempt	22	4.6	32.1	24	5	36
Hold	13	2.7	9.7	16	3.3	2.4
Courts	5	1	24.2	2	.4	19
Court Ordered Transport	31	6.4	29.1	19	3.9	12
Failure to Appear	61	12.6	17.4	30	6.2	7.1
Non Support	2	.4	18	2	.4	1
Other/Infractions	5	1	12	4	.8	24
Total	483	100	---	483	100	---

Sixty-eight percent (n=655) of bookings in this study were for a misdemeanor or a felony. The remaining third were bookings that were not the result of a new crime. Thirty-seven percent of black bookings, compared to 25 percent of white bookings, were “cyclical” bookings, meaning that the booking itself reflects a prior experience or contact with the justice system such as in the case of a booking to serve time or for failure to appear. These “previous contact bookings” for blacks accounted for nearly the same percentage of black bookings (37 percent) in 2000 as did misdemeanor bookings (37.5 percent). Black bookings for failure to appear were double white bookings for failure to appear (12.6 percent vs. 6.2 percent).

White bookings on a misdemeanor charge were considerably higher than those for blacks (55.7 percent vs. 37.5 percent), while black bookings on a felony charge were higher than those for whites (24.2 percent vs. 18.2 percent). While comparing percentages between the two groups is instructive, it is also helpful to compare the ratio of misdemeanor to felony charges within each group. Blacks had approximately 1.6 misdemeanor bookings for each felony, while whites had approximately three misdemeanor bookings for each felony.

Table 3 also indicates that-- except for the booking charges of probation violation, serve time or contempt, or other-- the mean days between booking and release for blacks were greater than those for whites. Of the bookings for a misdemeanor charge, blacks were detained more than twice as long as whites before release, 7.7 days compared to 2.8. For felony bookings, blacks averaged 40 days between booking and release, compared to 24.6 days for whites.

3. Charging

In each case where a formal charge was made after a booking, the class of the charge eventually made by the prosecutor’s office was compared to the level of the booking charge. Table 4 presents the distribution of prosecutor’s charge versus booking charge. As Table 4 indicates, formally-filed misdemeanor cases resulted from misdemeanor booking charges in 86.7 percent of black cases and in 92.6 percent of white cases. Formally-filed felony charges resulted from felony booking charges in 94.7 percent of black cases and in 96.8 percent of white cases.

For bookings where a charge by the prosecutor’s office could be determined,

Table 5 presents the distribution of the type of crime for which the offender was charged (up to two counts). Fifty-seven percent (n = 135) of black bookings that resulted in an official charge contained one count, and 29.4 percent (n = 70) contained two counts. For white cases, just over 50 percent (n = 160) of charges contained only one count, while 37.7 percent (n = 120) contained

Table 4. Prosecutor charge versus booking charge

Race		Felony case filed		Misdemeanor case filed	
		N	Percent	N	Percent
Black	Same as booking charge	71	94.7	144	86.7
	Higher than booking charge	4	5.3	---	---
	Lower than booking charge	---	---	22	13.3
	Total	75	100	166	100
White	Same as booking charge	60	96.8	238	92.6
	Higher than booking charge	2	3.2	---	---
	Lower than booking charge	---	---	19	7.4
	Total	62	100	257	100

two counts. For both blacks and whites, at least 95 percent of cases pursued in this study involved three counts or fewer.

Table 5 demonstrates that there is variation among the types of crimes blacks and whites were

Table 5. Type of crime charged for counts one and two

Crime Category	Black				White			
	Count 1		Count 2		Count 1		Count 2	
	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>
Alcohol-Related	51	21.4	36	35	184	58.2	103	65.6
Drug-Related	25	10.5	9	8.7	18	5.7	14	8.9
Crimes ag Property	54	22.7	9	8.7	40	12.7	3	1.9
Crimes ag Person	30	12.6	8	7.8	13	4.1	13	8.3
Non-Alcohol Traffic	41	17.2	13	12.6	32	10.1	9	5.7
Weapons	2	.8	1	1	1	.3	0	0
Other	11	4.6	12	11.7	7	2.2	8	5.1
RLE oriented	24	10.1	15	14.6	21	6.6	7	4.5
Missing	3	---	5	---	3	---	2	---
Total	241	100	108	100	319	100	159	100

charged with in this study. A far higher percentage (58.2 percent) of white cases involved an alcohol-related charge as the first charge, compared to black cases, where only 21.4 percent of the first or only count included an alcohol charge. Black cases with a primary charge related to property crime outpaced alcohol-related offenses for blacks, with the first count in 22.7 percent of black cases involving an offense against property. A far higher percentage of black cases than white cases also involved a first charge for person crimes (12.6 percent vs. 4.1 percent).

4. Pleas and dispositions

Table 6 provides the distribution of type of disposition for misdemeanor and felony cases by race. Here, the largest—and most striking-- disparity is in the number of misdemeanor cases disposed of via pretrial diversion. White misdemeanor cases (26.1 percent) were over three

Table 6. Disposition type

Disposition	Felony				Misdemeanor			
	Black		White		Black		White	
	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>
Guilty Pursuant to Negotiated Plea	53	77.9	46	79.3	64	41	100	40.2
Dismissed Pursuant to Negotiated Plea	5	7.4	1	1.7	32	20.5	20	8
Pretrial Diversion	0	0	1	1.7	12	7.7	65	26.1
Conviction/guilty plea	1	1.5	1	1.7	27	17.3	31	12.4
Dismissed	6	8.8	7	12.1	17	10.9	25	10
Not Guilty	1	1.5	0	0	0	0	0	0
Other	2	3	2	3.4	4	2.5	8	3.2
Missing	7	---	4	---	10	---	8	---
Total	75	100	62	100	166	100	257	100

times more likely to receive pretrial diversion than black misdemeanor cases (7.7 percent). Given that most of the cases sent through pretrial diversion are for alcohol-related offenses, much of the disparity can be explained by differences in the types of offenses for which black and white offenders were charged (see, Table 5). The percentage of black misdemeanor cases dismissed pursuant to a negotiated plea, 20.5 percent, was twice as high as the 8 percent of white misdemeanor cases dismissed pursuant to a negotiated plea. A slightly higher percentage of black misdemeanor cases, 17.3 percent, was also disposed of through a non-negotiated conviction, such as a straight guilty plea, compared to white cases where 12.4 percent of misdemeanor cases were disposed of through a straight conviction.

As Table 7 demonstrates, 154 black cases, and 167 white cases, (64 percent vs. 52 percent) resulted in a disposition of guilty pursuant to a negotiated plea or dismissed pursuant to a negotiated plea. Table 6 presents, for those cases, the distribution of negotiated pleas that did and did not involve another unrelated case. Twenty-four percent (n = 40) of white cases that resulted in a negotiated plea were plead with another unrelated case compared to 48.8 percent (n = 74) of black cases.

Table 7. Negotiated pleas with another case

Negotiated Plea	Black		White	
	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>
With Misd	39	25.7	26	15.7
With Felony	22	14.5	13	7.8
With Both	13	8.6	1	.6
With Neither	78	51.3	127	76
Missing	2	---	---	---
Total	154	100	167	100

5. Counsel

Table 8 presents the distribution of type of counsel for misdemeanor and felony cases by race. There are obvious differences here between black and white cases for both misdemeanor and felony charges. A higher percentage of black cases for both types of charge involved a public defender. For blacks, 88.1 percent of felony cases and 39.7 percent of misdemeanor cases involved a public defender, while just under 12 percent of black felony cases and just over 15 percent of black misdemeanor cases were associated with retained counsel. In contrast, 58.3 percent of white felony cases and 22.3 percent of white misdemeanor cases involved a public defender, while 41.7 percent of white felony cases and almost a quarter of white misdemeanor cases involved retained counsel. For both blacks and whites charged with a misdemeanor, the highest percentage of cases involved no counsel. The higher percentage of white misdemeanor cases not involving any counsel most likely can be traced to the higher percentage of white cases that was processed through the pretrial diversion program.

Table 8. Type of counsel

Defense	Felony				Misdemeanor			
	Black		White		Black		White	
	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>
Public Defender	59	88.1	35	58.3	58	39.7	53	22.3
Retained	8	11.9	25	41.7	22	15.1	58	24.4
None	---	---	---	---	66	45.2	127	53.4
Missing	8	---	2	---	20	---	23	---
Total	75	100	62	100	166	100	257	100

6. Race in Police Report

Table 9 demonstrates this study's examination of whether race was mentioned in the narrative of police reports. This variable was compared to how race was recorded in the jail logs when individuals were booked. As Table 9 indicates, in 42.5 percent of police reports involving black suspects, the suspect's race was mentioned. In police reports associated with white suspects, the suspect's race was mentioned as white 25.6 percent of the time. Over 70 percent of police reports concerning white arrestees did not mention race compared to 46.8 percent of reports concerning black arrestees. A distinction was made between reports that did not mention the race of the arrestee and reports where race was not mentioned but it was indicated that the police officer already knew the identity of the arrestee from prior involvement with the arrestee. In 10.3 percent of police reports involving blacks and 3.5 percent of reports involving whites, race was not mentioned in the police report, but it was stated in the report that the officer already knew the arrestee.

7. Initial Complainant

Table 10 offers the distribution of initial complainant as described in the police report by race. Over 50 percent of white bookings were based on officer-initiated arrests compared to 33.5 percent of black bookings. This disparity should be considered with the higher percentage of white charges involving alcohol, given that alcohol arrests are more conducive to officer initiation than many other offenses, such as a property crimes or person crimes. However, Table 10 (a) reveals that even when all cases that had an alcohol arrest as a first charge are excluded, whites still had a higher percentage of officer-initiated arrests, 40.8 percent, than blacks, 30.4 percent.

Because the police cannot "see" most crime occur, the burden of drawing the attention of the police to a crime or potential crime rests largely on the public.

Table 9. Race in police report

Race in Police Report	Black		White	
	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>
Black	99	42.5	0	0
White	0	0	80	25.6
Not Given	109	46.8	221	70.6
Not Given - Familiar	24	10.3	11	3.5
Other	1	.4	1	.3
Missing	39	---	29	---
Total	272 *	100	342 *	100

* Because police reports were available for bookings that did not result in a formal charge, those "no charge" cases were included in these totals. As Table 2 indicates, there were 31 "no charge" cases for blacks, and 23 for whites, meaning the data presented here are for the 241 black cases resulting in a formal charge plus 31 cases where no charge was filed (to equal 272) and the 319 white cases resulting in a formal charge plus 23 cases where no charge was filed (to equal 342).

Table 10. Initial complainant status

Complainant	Black		White	
	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>
Officer	79	33.5	159	50.2
Commercial	39	16.5	42	13.2
Government	26	11	17	5.4
Private	55	23.3	66	20.8
Domestic	25	10.6	15	4.7
Dispatch	12	5.1	18	5.7
Missing	36	---	25	---
Total	272 *	100	342 *	100

* As in Table 9, because police reports were available for cases that did not result in a charge, and because this variable like race in police report was derived from those police reports, information from cases in which no charge was filed (n = 31 for black cases and n = 23 for white cases) is included here.

Table 10 also demonstrates that a higher percentage of black bookings, 10.6 percent, resulted from a domestically-initiated complaint compared to white bookings in this sample, of which 4.7 percent were domestically-initiated. However, black and white cases proved rather similar with respect to the percentage of cases initiated via commercial, private, and dispatch methods.

Table 10 (a). Initial complainant status with alcohol charge as first offense excluded

Complainant	Black		White	
	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>
Officer	49	30.4	49	40.8
Commercial	30	18.6	23	19.2
Government	21	13	4	3.3
Private	37	23	33	27.5
Domestic	19	11.8	8	6.7
Dispatch	5	3.1	3	2.5
Missing	26	----	12	----
Total	187*	100	132*	100

*This table is based on the 187 black and 132 white cases where the type of crime for count I could be determined and was not alcohol-related (see, Table 5). Because this table looks at the type of crime with which an individual was charged, the 31 black and 23 white “no charge” cases (see, Table 2) are not included in this table, in contrast to Tables 9 and 10.

C. Sentencing

1. Overview

This section examines and compares sentencing length of black and white cases which ended in either a guilty plea (either a straight guilty plea or a guilty plea pursuant to a negotiated plea) or a straight conviction *and* which resulted in a sentence to incarceration. As Table 11 demonstrates, for both black and white misdemeanor and felony cases in which there was a conviction, there were no substantial differences between blacks and whites with regard to whether or not a sentence to incarceration was given.

Table 11. Sentence to incarceration for cases resulting in conviction

	Felony				Misdemeanor			
	Black		White		Black		White	
	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>	<i>N</i>	<i>Percent</i>
Sentenced to incarceration	53	100	46	100	63	72.4	98	75.4
No sentence to incarceration	0	0	0	0	24	27.6	32	24.6
Missing	1	---	1	---	4	---	1	---
Total	54	100	47	100	91	100	131	100

Because of the small number of women in the sample and in an effort to reduce the number of variables that might be influencing what we see, much of the following discussion will focus on male bookings so that the cases compared are as similar as possible. Unfortunately, there were no satisfactory means available within the scope of this study to measure prior record, which becomes especially important in discussions of sentencing and any ensuing disparity. The jail

number, which counts the number of times an individual is booked into the Monroe County jail, was used as the closest estimate available for this study. Much of the remaining analysis here separates those cases where a prior booking was recorded from those with no prior booking. However, a caveat should be noted: differences in sentence length are difficult to interpret without good prior record indicators; while prior bookings may offer *some* benchmark, differences should be interpreted with caution. It should also be noted that another problem with use of prior Monroe County bookings as a measure of “prior record” is that this measure does not include any information about prior convictions or about out of county arrests and/or bookings.

Moreover, it should be noted that, as mentioned in Section II, the literature demonstrates a link between race, class and involvement with the criminal justice system. Poor people generally are overrepresented at every stage of the criminal justice system, and people of color are disproportionately poor. Thus, although we recognize the importance of socioeconomic status as a factor in criminal sentencing, our data do not offer a direct measure of socioeconomic status. We do, however, have evidence that indirectly suggests that blacks in Monroe County may be disproportionately poor: According to the year 2000 census data for Monroe County, black families are 60 percent more likely than white families to have a household income less than \$25,000. Further, although involvement of a public defender is not a conclusive marker for socioeconomic status, we have previously noted that a higher percentage of black cases involved a public defender for both felony and misdemeanor charges (see, Table 8).

2. Misdemeanors

In this study, misdemeanors accounted for the largest number of cases booked, filed and sentenced to incarceration for both blacks and whites. With respect to booking charges, misdemeanors accounted for 37.5 percent of all black cases and for 55.7 of all white cases (see, Table 3). For type of cases filed by the prosecutor’s office, misdemeanors comprised 55.5 percent of all black cases and 72 percent of all white cases (see, Table 2). And as Table 11 demonstrates, in cases resulting in convictions which were sentenced to incarceration, misdemeanors accounted for 72.4 percent of all black cases and for 75.4 percent of all white cases.

Table 12 presents the mean and median number of days sentenced to incarceration, days of sentence suspended, and days of executed sentence by race for males charged with a misdemeanor who had no prior booking, either pleaded or were found guilty, and who were sentenced to some type of incarceration. Because the average days sentenced, suspended, and executed are sensitive to one or two cases that might have an extremely low or extremely high value, for example, the mean should be taken in context with the median in interpreting the findings in the remainder of this section.

Black males in this category were sentenced to a slightly higher average of 196.3 days of incarceration compared to 178 days for whites, while the median days sentenced were the same for both groups. The 175.5 mean days suspended for whites were slightly higher than the mean days suspended for blacks, 151.1, but the median days suspended for whites were approximately twice the median days suspended for blacks. The mean days of executed sentence for blacks

were approximately 7.7 times that of whites, but the median days of executed sentence for both groups were exactly 2.

Table 12. Mean and median days sentenced to incarceration for misdemeanors with no prior booking

	Black Males (N = 20)		White Males (N = 55)	
	Mean	Median	Mean	Median
Number of Days Sentenced	196.3	180	178	180
Number of Days Suspended*	151.1	88	175.5	178
Days of Executed Sentence*	36.3	2	4.7	2

* Information on suspended sentence was not available for one black case and one white case, therefore suspended sentence and executed sentence information is based on 19 black cases and 54 white cases.

Table 13 demonstrates the mean and median number of days sentenced, suspended, and executed by race for males who had at least one prior Monroe County booking, were charged with a misdemeanor, and received a sentence to incarceration.

Here, we see that the mean number of days sentenced for black males, 181.7, was just slightly higher than the 177.7 mean days sentenced for whites, but the median number of days sentenced for blacks was double that of whites. White males had a slightly higher mean, 152.1, for number of days suspended than the black mean of 136.1, but the median days suspended for both groups were almost equal. The 45.6 mean days executed for black males were higher than the 25.6 mean days executed for whites, and median days executed for blacks were twice that of whites.

Table 13. Mean and median days sentenced to incarceration for misdemeanors with prior booking

	Black Males (N = 36)*		White Males (N = 28)	
	Mean	Median	Mean	Median
Number of Days Sentenced	181.7	180	177.7	90
Number of Days Suspended	136.1	58	152.1	59
Days of Executed Sentence	45.6	6	25.6	3

* One black case was excluded from the analysis because of missing data, there were 37 total applicable cases.

3. D Felonies

In all, there were 38 black male D felonies and 41 white male D felonies in this sample, although not all of those charges led to a conviction. Table 14 presents information for D felony cases in which an offender had no prior booking, was charged with a D felony, and the case ended with a conviction and sentence. The mean and median days sentenced to incarceration for whites, 622.5 and 575, respectively, were both higher than the 428.2 mean and 365 median days sentenced for blacks. The mean days suspended for whites were, however, more than two times the mean days suspended for blacks, and the median days suspended for blacks was zero, compared to 483 for whites. Although the mean and median days sentenced for whites were higher than for blacks, the greater number of days suspended for whites leaves blacks with a greater number of days executed. The mean days executed for blacks were 191.4 compared to 83.9 for whites, and the median days executed for blacks were 106, compared to 2 for whites.

Table 14. Mean and median days sentenced to incarceration for D felonies with no prior booking

	Black Males (N = 9)		White Males (N = 8)	
	Mean	Median	Mean	Median
Number of Days Sentenced	428.2	365	622.5	575
Number of Days Suspended	236.8	0	538.6	483
Days of Executed Sentence	191.4	106	83.9	2

Table 15 provides the mean and median days sentenced, suspended, and executed for male D felony cases where the offender had a prior booking. The mean days sentenced for blacks, 652.3, were slightly higher than for whites, though the median days sentenced for whites were higher than for blacks. The mean and median days suspended for blacks, 329.4 and 315, respectively, were lower than the 474.1 mean and 365 median days for whites. For blacks, the 322.8 mean days executed were nearly twice the 164.5 mean days executed for whites, which was consistent with the 181.5 median days executed for blacks being just over twice the 90 median days executed for whites.

Table 15. Mean and median days sentenced to incarceration for D felonies with prior booking

	Black Males (N = 16)		White Males (N = 21)	
	Mean	Median	Mean	Median
Number of Days Sentenced	652.3	635	638.6	730
Number of Days Suspended	329.4	315	474.1	365
Days of Executed Sentence	322.8	181.5	164.5	90

* One black case and one white case were excluded from the analysis because of missing data, there were 17 total applicable black cases and 22 applicable white cases.

4. C Felonies

Table 16 demonstrates the mean and median days sentenced, suspended, and executed for males with no prior booking who were convicted and sentenced based on a C felony charge. Although the mean and median days, 1885 and 1825, respectively, for blacks were higher than the 1182.5 mean days for whites, it should be noted that there were only three applicable black cases and two applicable white cases to analyze, meaning these numbers must be interpreted with caution. While blacks had a higher mean and median days suspended, than whites, blacks also had a mean executed sentence of 1033.3 days and a median of 910 compared to 395 days for whites. However, there are not enough applicable cases to make these comparisons meaningful.

Table 16. Mean and median days sentenced to incarceration for C felonies with no prior booking

	Black Males (N = 3)		White Males (N = 2)	
	Mean	Median	Mean	Median*
Number of Days Sentenced	1885	1825	1182.5	---
Number of Days Suspended	851.7	1095	787.5	---
Days of Executed Sentence	1033.3	910	395	---

*Because there are only two white male cases, the median is the same as the mean.

Table 17 presents the mean number of days sentenced, suspended, and executed for male bookings resulting in a conviction on a C felony charge where the defendant had a prior booking.

White males in this category had a higher mean and median days sentenced, suspended, and executed than black males. However, once again, the small number of applicable cases (only two white male cases) makes it impossible to draw any meaningful conclusions from these data.

Because of the small number of C felony cases filed, it is more instructive to examine the mean and median days sentenced, suspended, and executed for C felonies by combining males with and without a prior booking. As Table 18 demonstrates, combining those cases with no prior booking with those where there was a prior booking allows comparison of 12 black males cases to four white males cases. Given that there are only four white male cases, these results should be interpreted with caution.

Table 17. Mean and median days sentenced to incarceration for C felonies with prior booking

	Black Males (N = 9)		White Males (N = 2)	
	Mean	Median	Mean	Median*
Number of Days Sentenced	1047.9	377	1734	---
Number of Days Suspended	650.4	365	968.5	---
Days of Executed Sentence	395.2	116	765.5	---

*Because there are only two white male cases, the median is the same as the mean.

Table 18 shows that the mean days sentenced for white males, 1458.3, charged with a C felony were higher than the 1257.2 mean days sentenced for black males, with the white male median of 1186.5 also being higher than the 729 median days for blacks. Whites had a higher mean, 878, and median, 787.5, days suspended than blacks, 700.8 and 396.5, respectively. However, the executed sentences for both groups were similar with the mean days, 554.8 of executed sentence of black males being just slightly lower than the 580.3 mean days executed for whites. The median days executed for blacks and whites were also quite similar, 365 days and 400.5 days, respectively.

Table 18. Mean and median days sentenced to incarceration for all male C felony cases

	Black Males (N = 12)		White Males (N = 4)	
	Mean	Median	Mean	Median
Number of Days Sentenced	1257.2	729	1458.3	1186.5
Number of Days Suspended	700.8	396.5	878	787.5
Days of Executed Sentence	554.8	365	580.3	400.5

5. A and B Felonies

A and B felonies are the most serious charges that can be brought against a defendant (other than murder) and, therefore, make up the fewest cases processed by the justice system. The small number of A and B felonies creates a number of problems for comparison in this study. Eleven of the 12 total A and B felonies associated with black cases were of males. The remaining case was a B felony charge against a black woman, the only female A or B felony charge in this study. Of the already small number of 11 black male A or B felonies, information was incomplete for two cases, and, thus, these two cases were excluded from the analysis of sentence

length. Five of the nine black felony cases included here involved a prior booking, and four did not. Of the six white cases that included an A or B felony charge, five involved a prior booking, and one of those cases could not be used in this analysis because of incomplete information. There was only one white male A or B felony that did not involve a prior booking.

It should be noted that our method of distinguishing cases based on the presence of a prior booking, as demonstrated clearly for C felonies, is only useful when there are a sufficient number of cases. As seriousness of the charge rises and the number of cases in each group begins to diminish, distinguishing between prior booking cases and no prior booking cases can actually begin to cloud rather than clarify questions about comparing black and white sentence lengths. Therefore, we combine here A and B felonies for males regardless of whether there was a prior booking. Even doing this does not completely allow for fair comparisons. One black case in our study, in which a 75-year sentence was given, skews the results dramatically, since a 75-year sentence is quite extraordinary (the second highest maximum sentence in our study was 14 years). Because this “outlier” is so dramatic, we seek to draw attention to its influence. Therefore, Table 19 provides the results of male A and B felony cases regardless of prior booking status, and for black cases, two results are provided. The first column for blacks includes the 75-year outlier sentence; the second column excludes that sentence.

The results of Table 19 demonstrate how drastically one dramatic sentence can skew comparisons. Analysis of black cases, including the 75-year sentence when compared to A and B felonies for white males, indicates that blacks received dramatically longer sentences than whites and that the executed sentences for blacks were more than 2.3 times that for whites. However, given our concern that we should compare sentences for blacks and whites based on cases as similar in nature as possible, it makes little sense to include such an extraordinary sentence.

Therefore, comparing the second column of black male cases that excludes the 75-year sentence allows for a more legitimate comparison between sentences for blacks and whites. Here, we see that the white mean days sentenced for an A or B felony, 2591.6, are 1.6 times that for blacks, who received a mean sentence of 1669.3 days. The median of 2738 days is also dramatically higher for whites than the black median of 1095 days. Black days suspended had a mean of 539.6 days and median of 178, both lower than the white mean of 1161.8 and median of 1757 days. However, the number of days executed for blacks was also dramatically lower than that for whites, with the mean days executed for whites (1429.8) over twice that for blacks (638.1), and the median days executed for whites (1460) over 6.5 times the median for blacks (224).

Table 19. Mean and median days sentenced to incarceration for A and B felonies

	Black Males <i>including</i> 75 year sentence (N = 9)*		Black Males <i>excluding</i> 75 year sentence (N = 8)*		White Males (N = 5)	
	Mean	Median	Mean	Median	Mean	Median
Number of Days Sentenced	4525.4	1095	1669.3	1095	2591.6	2738
Number of Days Suspended	1156.5	545.5	539.6	178	1161.8	1757
Days of Executed Sentence	3295.9	388	638.1	224	1429.8	1460

* Days suspended and days executed were unavailable for one black case; therefore, the mean and median days sentenced are provided for all nine cases in the first column for black cases (including the 75 year sentence) and all eight in the second column for black cases (excluding the 75 year sentence). However, this case does not figure into the data for days suspended or executed. is not included in the days suspended or executed for either black case column.

V. SUMMARY OF KEY FINDINGS

As described in Section III of this report, this study is the second investigation of race and crime in the Monroe County criminal justice system. The basic question posed by researchers in both studies was whether racial disparity and/or racial bias exist in the criminal justice system. In addition, a goal of this study at the outset was to identify strategies and “best practices” for preventing and reducing racial disparities—or the perception of racial disparities—in the system. To that end, this study examines Monroe County jail bookings in the year 2000, provides a detailed comparison of black and white case processing stemming from those jail bookings, and includes recommendations for preventing and reducing racial disparities. Because this study examines all black bookings in 2000, we are not only able to compare black versus white processing in an effort to tease out racial disparity, but we are also able to examine the entire population of black cases for this time frame.

As detailed in Section II, we know that blacks are overrepresented—and that racial disparities exist—in the criminal justice system at the federal, state, and local levels, and at every stage of the criminal process. We also know these overrepresentations and disparities exist for males, females, juveniles, and adults. Further, we recognize that these disparities, while “...rarely a result of clear-cut decisions to provide unfair treatment, threaten to produce in communities in every city and state an unhealthy and counterproductive distrust of the criminal justice system” (*Reducing Racial Disparity in the Criminal Justice System*, 2000, p. 1). Finally, we note that addressing racial disparity in the criminal justice system is entirely consistent with a commitment to public safety and to a fair system of justice.

A. Key Findings: Disparity in Several Areas of Criminal Justice Processing

The data collected in this study clearly show differential impact in case processing between blacks and whites. In a number of categories, though not all, blacks are overrepresented in the Monroe County justice system. The following—and other—findings are discussed in greater detail in Section IV and below:

- **Arrest:** Blacks were arrested and booked at more than three times their share of the Monroe County population.
- **Officer-initiated arrest:** Blacks were 33 percent *less* likely than whites to be arrested and booked through police officer-initiated arrests (33.5 percent vs. 50.2 percent).
- **Bookings other than for new crimes:** Blacks were 48 percent more likely than whites to be booked for reasons other than for commission of a new crime, such as failure to appear, probation violation, and court ordered transport (37 percent vs. 25 percent).
- **Pretrial detention:** Blacks were held in jail more than twice as long as whites prior to release for misdemeanor offenses (7.7 days vs. 2.8 days) and nearly twice as long for felony offenses (40 days vs. 24.6 days).
- **Pretrial diversion:** Blacks were only one-third as likely as whites to be eligible for or enroll in the pretrial diversion program (7.7 percent vs. 26.1 percent).

- **Charges dismissed:** Blacks were slightly more likely than whites to have misdemeanor charges dismissed (10.9 percent vs. 10.0 percent), and slightly less likely than whites to have felony charges dismissed (8.8 percent vs. 12.1 percent).
- **Sentencing:** Blacks served more incarcerated time than whites in most categories of offenses, when looking at both mean and median days of executed sentence. For misdemeanor cases with no prior booking, the mean days of executed sentence for blacks (36.3 days) were 7.7 times those of whites (4.7 days), but the median days of executed sentence for both groups were the same—2 days. For misdemeanor cases with a prior booking, the mean days of executed sentence for blacks (45.6 days) were nearly twice that of whites (25.6 days), and the median days of executed sentence for blacks (6 days) were double those of whites (3 days). For Class D felonies with no prior bookings, the mean days of executed sentence for blacks (191.4 days) were over twice that of whites (83.9 days), and the median days of executed sentence for blacks (106 days) were more than 50 times that of whites (2 days). For Class D felonies with a prior booking, the mean days of executed sentence for blacks (322.8 days) were nearly twice that of whites (164.5 days), and the median days of executed sentence for blacks (181.5 days) were double those for whites (90 days). For Class A, B, and C felonies, the number of cases was too small to allow for meaningful comparisons.

B. Data Interpretation: Difficulty in Assessing Causes of Disparity

We have pointed out in Section II that overrepresentation does not necessarily imply that racial disparities are unwarranted. These disparities may result from factors other than racial discrimination, profiling or bias. For example, if disparities reflect higher rates of involvement in crime, a more substantial criminal history, or lower socioeconomic status, then high arrest, sentencing, and incarceration rates might be explained by such factors. To what extent, then, can we draw conclusions about these findings?

The limitations of even as extensive a study as this one make it difficult to draw strong conclusions about these issues. For example in this study, we have examined what happened to cases at various decision-making points in the criminal justice system; however, we have little data concerning *how* and *why* these decisions took place. Because of resource and data availability constraints inherent in this study, we also lack robust proxies, or substitutes, for criminal history and socioeconomic status. Thus, a relatively large slice of the picture is obscured from our view from the very start. In other words, our data reveal little about the decision-making process, the prior records, or socioeconomic backgrounds of individuals in our sample. Given that prior involvement with the justice system and socioeconomic status are prime predictors of case processing, these are important limitations to consider as the data are interpreted. Thus, although this study offers a detailed snapshot of what decision-making looks like at different points in the criminal justice process, we cannot determine that race *per se* was the reason that any particular decision was made.

C. Implications for Policy and Practice

Although Mauer comments that it would be useful to conduct further research to shed light on the causes of racial disparity in the Monroe County criminal justice system, he points out that

that identifying such causes is not a prerequisite to the remediation of disparity. As Mauer notes, the data collected in this study provide a trove of useful information on decision-making and case processing at various points in the system. This information should enable local leadership to “develop strategies designed to reduce existing disparities through the promotion of criminal justice policies and practices that are both fiscally responsible and consistent with promoting public safety” (p. 2).

In his analysis, Mauer also outlines the basic strategy for the development of such policies and practices:

- Develop sound criminal justice practices to produce appropriate outcomes for all persons in the justice system. Such an approach is likely to have a disproportionately beneficial effect for African Americans due to their higher rates of involvement in the system.
- In selecting strategies for reducing racial disparity, target areas of the justice system where disparities are most significant and, therefore, ones which contain the potential for producing the greatest impact. (p. 2)
- Monitor and evaluate new initiatives to assess their impact on criminal justice practice overall and on reducing racial disparity.

In the following section, we outline a series of strategic steps that can be taken to reduce unwarranted racial disparity in the Monroe County justice system, consistent with the above guidelines for development of sound criminal justice practice.

VI. RECOMMENDATIONS FOR REDUCING RACIAL DISPARITY

Racial disparity in the criminal justice system is a cumulative process that builds at each stage of the justice system. As such, no single intervention can be expected to reduce all unwarranted disparity, nor should we expect that the burden of addressing the problem rests on a single component of the system. Thus, efforts to reduce racial disparity should be systemic and involve coordinated actions by all stakeholders.

Reducing racial disparity is also not solely the responsibility of the criminal justice system, but requires coordinated approaches between the justice system and the community. Strategies such as community-based crime prevention, community policing, and a focus on reentry services for released prisoners can produce beneficial effects for offenders while also addressing disparities.

The following recommendations for reducing racial disparity are based on the data analysis produced in this study. The goal is to target specific areas of the justice system in which disparities have been documented and to develop sound policies that can begin to reduce these disparities. While in many cases we cannot be certain as to the causes of the disparities, this should not inhibit the development of new approaches.

These recommendations are focused on specific objectives and are not directly targeted at any single actor in the system. In most cases, implementation of these recommendations will require coordinated approaches by a range of justice system leaders.

We begin with three general recommendations, followed by specific target areas.

A. General Recommendations for the Monroe County Criminal Justice System

1. The Monroe County Racial Justice Task should continue its leadership role in the community

All components of the Monroe County Criminal Justice System should be involved in an ongoing and interactive process of examining and developing policies, practices and strategies—“best practices”— to reduce racial disparity consistent with public safety. The RJTF should continue its role in assisting in the facilitation, coordination, and monitoring of these activities with the input of community stakeholders.

2. Race of defendants should be reflected in all criminal court records.

At the time this study was undertaken, race was reflected only in jail booking records. The Monroe County Circuit Court recently implemented the documentation of race in court records. Documentation of race by the courts will help local justice system actors to continually monitor areas of overrepresentation and disparity as well as the effects of initiatives to target disparities. This practice has been approved by the United States Department of Justice as constitutional and consistent with federal law

3. Ongoing agency and public education concerning the criminal justice system should be established.

Both the criminal justice system and the community would benefit from greater mutual education and coordination. For citizens, this includes such practices as learning appropriate responses when stopped by the police, how to report victimization, and how to obtain feedback on case processing in the court system. For the justice system, benefits would include greater understanding of the needs of both victims and offenders, better coordination with community services designed to both prevent and respond to crime, and the implementation of appropriate training for all employees.

B. Criminal Justice Strategies to Reduce Disparity

1. Arrest/Bookings

Issue: During 2000, more than 9 percent, or 483, of the 5092 bookings in Monroe County were of blacks. (85.7 percent, or 4366, of those bookings were of whites; for the remaining 243 bookings, another race, besides black or white, was recorded.) The black bookings in some cases represented multiple arrests among 327 individuals. Because blacks comprised just over 3

percent of the Monroe County population, these figures indicate that blacks were arrested and jailed at three times their share of the county population.

Because of the study limitations described throughout this report, we cannot conclusively identify the causes of this racial disparity. However, our data do provide important, if partial, information concerning this disparity: (1) Thirty-seven percent of black bookings (compared to 25 percent of white bookings) were for reasons other than for commission of a new crime, such as failure to appear, probation violation, and court ordered transport, i.e., cyclical bookings; and (2) blacks were 33 percent *less* likely than whites to be arrested and booked through police officer-initiated arrests.

The prevalence of racial profiling by law enforcement agencies, including data from some jurisdictions that police are disproportionately targeting black and other motorists of color, has been an area of concern nationally in regard to racial bias. In this area, we find *no* such disproportionate impact in Monroe County, and, as noted above, there were more white arrests (50.2%) that resulted from officer-initiated actions than for blacks (33.5%). Although the high number of alcohol-related arrests for whites contributes in part to this difference, there were still more white arrests (40.8%) than black arrests (30.4%) resulting from police officer-initiated action when alcohol-related arrests are excluded.

Thus, the strategies suggested below are two-pronged: (a) reducing *actual* racial disparity in arrests through a focus on reducing cyclical bookings involving failure to appear and probation violations; and (b) reducing the *perception* of racial disparity in arrests through enhancing best practices in community policing.

a. Cyclical Bookings

i. FAILURE TO APPEAR

Issue: Black bookings were more likely to be “cyclical” than white bookings (37 percent vs. 25 percent). These included such factors as failure to appear, probation violations, court ordered transport, and serve time/contempt. Failure to appear was the third most frequent category of bookings, constituting 8 percent of all bookings for the year. Further, blacks were twice as likely as whites (12.6 percent vs. 6.2 percent) to be booked for failure to appear, and remained in jail more than twice as long as whites for these bookings, 17.4 days vs. 7.1 days.

Strategy: Court officials should convene a working group to examine the higher rate of failure to appear among blacks and to develop strategies to reduce these rates.

Specific actions to be considered include:

- Analyzing the factors that contribute to failure to appear. For example, are defendants missing court appearances because they miss notices or are unable to get time off from work? Because scheduling is impractical? Do repetitive appearances and lack of transportation have a detrimental effect on the ability of some defendants to make appearances?

- Reviewing the notification process for court hearings to determine whether these could be enhanced such as via defense attorney communications, telephone or mail contacts, and other measures designed to secure appearances in a fair manner.

ii. PROBATION VIOLATIONS¹⁴

Issue: Probation violations accounted for the fourth largest category, 5.8 percent, of jail bookings in Monroe County in 2000. Blacks were 1.5 times more likely than whites (9.5 percent vs. 6 percent) to be booked for a probation violation and accounted for 15.6 percent of the 295 bookings.

Strategy: Court and probation officials should assess the factors that contribute to violations and expand the range of responses to violations.

- Monitoring and assessment of why violations occur, with a goal of developing proactive responses to preventing probation failure, such as increased availability of substance abuse treatment if a substantial number of violations are found to be substance-related.
- Policies on handling violations should be examined to ascertain whether departmental discretion in handling violations is clear and whether there exists any unwarranted variation among probation officers that may contribute to disparate outcomes.
- Local officials should explore a greater range of non-jail options to violations. These may include increased monitoring and reporting, referrals to treatment programs, and other conditions of supervision.

b. Perception of Racial Bias in Law Enforcement

Issue: Even though the data in this study do *not* support a finding that systemic racial profiling or bias by law enforcement is a cause of racial disparity in arrest activity in Monroe County, the RJTF recognizes that addressing the *perception* of racial bias is essential to the development of public confidence and trust that are critical to effective crime control policies.

Strategy: Strengthen Community Policing Strategies and Provide Feedback to the Community on Policing Practices

Police agencies in the county can engage in coordinated efforts to provide feedback to the community on arrest practices and to cooperatively develop partnerships with the community. Such approaches can include:

- Police should document and videotape all vehicle stops, arrests and bookings. Whether or not discrimination can be documented or proven in a community, the perception of discrimination by law enforcement within certain groups is detrimental to both the community and the criminal justice agents who serve in the community. The best way for

¹⁴ Parole violations are included under “Probation Violations.”

law enforcement officials to address these misperceptions is to have a clear record of arrests and other contacts. Documentation and videotaping of all vehicle stops and arrests will give all citizens in the community, irrespective of race, the opportunity to observe the evenhandedness of police at work, or any lack thereof, while allowing them to feel more involved in the accountability process. Videotapes should be made available for viewing when appropriate.

- Law enforcement agencies should develop and coordinate community policing approaches. A community policing model of service creates structures and processes, especially in high crime neighborhoods, to encourage participation of community leaders and residents in defining the major concerns of the community, as well as in designing and implementing appropriate problem-solving strategies to address them.
- Law enforcement agencies should develop special orientation training for police personnel working in neighborhoods or with populations which contain substantial numbers of minority group members.

2. Pretrial Detention

Issue: Although most individuals who are booked into jail bond out within 24 hours, blacks charged with misdemeanors averaged more than twice as many days in jail before release as whites (7.7 days compared to 2.8 days). Similar disparities exist for felonies, with blacks being jailed for an average of 40 days and whites for 24.6 days. Our data show that blacks and whites differed in the types of crimes for which they were charged, with whites having a much higher rate of alcohol-related charges than blacks. It is safe to assume that many of the white misdemeanor bookings involved college students who were arrested for alcohol violations.

The current bond schedule requires payments of a \$500 deposit, which covers costs, fines and fees at the end of the case. This expense, on top of the premium paid to a bondsman, presents a major financial hardship for the poor. However, there is little reason to believe it affects appearance in court as ordered. Assuring appearance in court is the only legitimate purpose of bond under Indiana law. The complication is that the \$500 deposit brings many thousands of dollars of court costs to the court system that would otherwise go uncollected. Since the 2000 Census figures indicate that blacks were 60 percent more likely to have an annual income below \$25,000 than whites, addressing how bonding issues create disparate effects would benefit black defendants.

Strategy: Court officials should assess the factors that contribute to lengthier pretrial detention for blacks and develop appropriate remedies that are consistent with the goal of assuring appearance at trial.

- Bond schedules should be evaluated so that low-income defendants are not jailed for longer periods than those who can afford to post bail. Court officials should consider development of a bond schedule more directly based on ability to pay.

- Court officials should examine the criteria used to make pretrial release decisions, with a particular emphasis on ties to the community. For example, are college students charged with alcohol offenses considered more likely to appear at trial than city residents? Which criteria are most reliable in demonstrating ties to the community?
- Officials should also consider what additional release options would provide greater assurance of appearance at trial while also resulting in speedier release. Such options might include third-party or electronic monitoring.

3. Pretrial Diversion

Issue: Whites were over three times more likely than blacks to be admitted to the pretrial diversion program (PDP). PDP is available to first time offenders charged with nonviolent misdemeanors, such as public intoxication or shoplifting. After completing mandatory community service/road crew, attending related educational classes, and paying restitution and program-related fees, the case is dismissed.

Over 26 percent of whites in our sample participated in pretrial diversion compared to only 7.7 percent of blacks. The pretrial diversion program is essentially non-discretionary; that is, anyone charged with an eligible offense who meets the criteria for diversion and is able to pay the program fees is offered the option of the program. Those who benefit most from the pretrial diversion program are generally persons charged with illegal consumption and public intoxication, offenses disproportionately committed by whites. We cannot discern from our data, however, what percentage of blacks were eligible for pretrial diversion.

Strategy: Local officials should examine the criteria for diversion and any obstacles to participation with a goal of considering expansion of the program.

- Officials should consider expanding diversion eligible offenses to other low-level categories of crime which might benefit a greater number of black defendants, while also diverting persons who do not have a criminal record away from the cycle of acquiring a criminal conviction.
- The reasons for nonparticipation by eligible black defendants should be investigated. If the cost of the program is prohibitive to participation for some, the local justice system should consider developing a sliding scale based on need.

4. Sentencing

Issue: Sentencing is a complex process and involves consideration of a range of variables such as severity of the offense, prior criminal history, and other factors. The data presented in this study indicate that blacks are more likely than whites to be sentenced to incarceration for some categories of misdemeanors and felonies but serve considerably more time incarcerated for D felonies in particular (both for cases with no prior bookings and those with prior bookings).

Strategy: Local officials should examine sentencing disparities in D felony cases in particular to determine the causes of disparity and to develop appropriate remedies.

- Prosecutors, defense attorneys, and judges in particular should analyze a range of such cases to determine if legally relevant variables explain the disparities in these cases.
- Officials should explore the range of sentencing options for such cases with a goal of expanding the use of non-jail alternatives.

VII. CONCLUSION

The growing disparate impact of criminal justice system policies and laws on people of color in the United States constitutes one of the most challenging issues facing American society today:

Many of the racial tensions and problems in society manifest themselves most prominently in high-profile cases and in the composition of the prison and jail population nationally. Addressing these problems is critical for many reasons. If the criminal justice system is to be viewed as effective and fair, then it needs the support and cooperation of all citizens and all communities. The perception or existence of bias or unwarranted disparities can only interfere with the development of confidence and trust that is critical to effective crime control policies. *Reducing Racial Disparity in the Criminal Justice System—A Manual for Practitioners and Policymakers*, The Sentencing Project, 2000, p 80

The Monroe County Racial Justice Task Force acknowledges that criminal justice officials and practitioners cannot eliminate all racial disparities from the system. However, we recognize that these individuals have the opportunity, as well as the obligation, to address those disparities over which they have some control or influence.

This report and its recommendations—and the study which gave rise to both—evinced the commitment and dedication of many local officials and practitioners to reducing unwarranted racial disparities in the Monroe County criminal justice system. The Monroe County Racial Justice Task Force believes that the findings of this study demonstrate that remediable disparities exist *and* that these disparities can be alleviated through coordinated activities on the part of the entire Monroe County community.

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APPENDIX A

RACE AND CRIMINAL JUSTICE IN MONROE COUNTY, INDIANA

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February 10, 2001

Executive Summary

All those identified as Black who were booked into the Monroe County, Indiana jail in 1997 and the first 6 weeks of 1998 were matched with a comparable number of those identified as White who were booked into jail during this period. We studied the executed sentences issued by the six divisions of the Monroe County Circuit Court for the 179 Blacks and 182 Whites, and the class of crime (Misdemeanor, Class D, C, B, or A Felony) for which they were charged. Our results show:

- Blacks are arrested and jailed more than three times as frequently as Whites.
- Blacks are disproportionately prosecuted for A and B Felonies, which leads to overall longer sentences for Blacks.
- No evidence of bias against Blacks in sentencing was found.

We recommend:

- Recording easily accessible racial data in court records.
- Studying racial profiling in Monroe County.
- Creating a task force to end racial discrimination in the Monroe County criminal justice system.

Objectives

In January of 2000, a joint committee was formed by the Monroe County Branch of the National Association for the Advancement of Colored People (NAACP) and the What Color Is Community? Social Justice Task Force of the Unitarian Universalist Church of Bloomington (UU Task Force) with the objective of studying race and sentencing in Monroe County, Indiana. We recognized a widely held perception, especially in the Black community, that Blacks are sentenced to longer terms of incarceration than Whites in Monroe County. We decided to seek information that would shed light on whether this perception was accurate or not. Thus we sought to answer the following question:

In Monroe County, are average sentences for Blacks longer than average sentences for Whites?

We also collected data that would bear on the distribution of charges between the races, such as the percentages of Blacks and Whites arrested or charged with particular classes of crimes in our county.

Monroe County Criminal Justice System and Technical Vocabulary

Appendix A (page 9) describes the workings of the Monroe County Justice System. Readers not familiar with it might want to read Appendix A before proceeding with this report. Many technical terms used in this report are explained in the appendix and marked with bold italics.

Administrative Procedures

A plan was drafted and, as a courtesy, presented to the Monroe County Circuit Court Judges, Prosecutor, Public Defender, Clerk, and Court Services Office, inviting suggestions as to how to proceed. We gathered data with assistance from the offices of the Monroe County Sheriff, Clerk, and Court Services. They were gathered and analyzed by numerous volunteers from the NAACP and the UU Church. Statistical analysis was done by committee members with professional experience analyzing social science data.

Methods

The only record of the race of arrested individuals is compiled at the Sheriff's office. Information about disposition of each case was only available at the Monroe County Courthouse. We obtained printouts from the Sheriff's office showing the name and race of each person booked into the jail during 1997 and the first six weeks of 1998, a time interval of 13.5 months. This time period was chosen so that we could be confident that almost all of the cases would have been processed through the court system at the time of our project. That sometimes takes a year or more, especially for serious crimes.

The Court Services computer files (which are publicly accessible) were examined for all the criminal cases filed against the Blacks according to the jail booking list. However, since there were almost 8 times as many Whites arrested in this interval, studying all the Whites was not feasible, given our resources. Thus a subset of Whites was randomly selected across the same time interval to match the number of Black cases, using the following procedures. The Sheriff's arrest lists were in order of jail identification number. The jail identification number assigned to each person at the time of their first arrest in Monroe County is used permanently for that person. Since the ID number reflects arrest history and therefore might affect sentencing, for each Black we alternately chose the White who preceded and who followed each Black on the list. After discarding some inappropriate cases, we established a data set of 179 Blacks and 182 Whites, for a total of 361 cases.

The number of days of incarceration that were ordered for each subject was ascertained along with the class of crime charged plus the division of the Circuit Court in which the case was handled. Revoked portions of sentences that were originally suspended were included in the number of incarceration days. Cases that were dismissed without conviction and convictions that led to no executed time were all treated as zero day sentences. Some dismissals represent defendants who failed to appear. Each case filed against a defendant from a new arrest was treated as a separate case. From these data we computed the average executed sentence overall, by each class of crime charged, and by the sentencing court, for both racial groups.

Results

We note that most of our findings did not meet standard criteria of statistical significance. For discussion of this issue, please see **Appendix B**, *Note on Statistical Tests*, page 10.

Sentence length and race

Look first at **Figure 1**, on page 12 of this report. It shows the shape of the distribution by race for all 361 cases. (Note that neither axis is linear; both the Number of Cases and the Length of Sentence are compressed.) The distribution of Number of Cases by Sentence Length is clearly highly skewed toward zero days. Many cases had sentences of only a few days. This is not surprising since 2/3 of all the cases were Misdemeanors. (See the bottom row of **Table 1**.)

Looking then at the sentence lengths for each class of crime, the **bold** numbers of **Table 1** show the number of executed sentence days for Blacks and Whites. Toward the right end of the table, it can be seen that the average sentence length for Blacks is 50% longer than for Whites (187 days vs. 123). But looking at the sentence for each class of crime shows that it is actually shorter for Blacks than Whites for Misdemeanors and the Class D, C, and B Felonies. It is longer only for the Class A Felonies. The difference is especially noticeable for the Misdemeanors where Blacks got an average of 9 days and Whites an average of 23 days (about 2.5 times as long). We found a significantly greater number of zero day sentences for Blacks than Whites who were charged with misdemeanors. ($\chi^2=17.45$, degrees of freedom = 1, probability < 0.0001.)

Table 1

Mean Sentence and Number of Defendants by Class of Crime and Race

	Misde- meanor sent #	D Felony sent #	C Felony sent #	B Felony sent #	A Felony Sent #	Mean Sentence	Total # of Cases
Blacks	9 <i>120</i>	119 <i>35</i>	138 <i>9</i>	1524 <i>8</i>	2111 <i>7</i>	187	<i>179</i>
Whites	23 <i>123</i>	168 <i>41</i>	442 <i>13</i>	1948 <i>3</i>	549 <i>2</i>	123	<i>182</i>
Sum	<i>243</i>	<i>76</i>	<i>22</i>	<i>11</i>	<i>9</i>		<i>361</i>
% of Cases	<i>67.3%</i>	<i>21.1</i>	<i>6.1</i>	<i>3.1</i>	<i>2.5</i>		

Table 1. The mean **executed sentence length** in days (sent) is in bold font for each class of crime from least serious on the left to most serious on the right. The *number of defendants* is in italics. The bottom row shows the proportion of all cases of executed sentences that are of each class of crime.

The numbers in italics in **Table 1** show the number of cases for each class of crime by race (as well as row and column sums). As can be seen at the far right, the total number of cases was nearly identical, as planned. Along the bottom is the percent of our combined samples (both racial groups) charged with each class of crime. It can be seen that two-thirds of the cases charged are Misdemeanors, about 20% are Class D Felonies, 6% are Class C and roughly 3% each for Class B and A. Looking at the numbers in each class by race, we find that for

Misdemeanors and Class D and C Felonies, the number of Blacks and Whites charged are roughly the same. However for the most serious crimes, Classes B and A, we find that 75% of them are Black (15 cases) and 25% are White (5 cases).

Several other observations can be made from our data:

- **Arrests for Class A Felony drug cases.** The crime with the longest sentences was “Cocaine and Narcotic Drug Dealing”, a Class A Felony. One White was arrested for the charge, while seven Blacks were. Only one other Class A Felony was found in our sample, that against a White (on a child molestation charge). In order to increase our sample of Whites, we looked at another random sample of 60 more Whites arrested in 1998 (whose cases were not matched with Blacks used in this study). Adding them in gave a total of 242 Whites, but we found no additional Class A Felonies for Whites.
- **Arrests by race.** Jail booking records during the period we studied included 522 Blacks and 4339 who were not Black, for a total of 4861 bookings. Thus Blacks made up 10.74% of those booked, while comprising only about 3% of the county population. (See **Appendix C, Census Data**, page 11.) Of the 522 Black bookings, there were 325 individual Blacks, with 197 repeat arrests. This shows that 9.42% of Blacks living in Monroe County were booked into jail during the period of our study.
- **Arrests without prosecutions.** We were surprised that we could not find prosecutions for most Blacks booked. For instance, of 522 Blacks arrested and booked, we found prosecutions in the Court records of only 179. Bookings that would not lead to prosecutions include out-of-county-warrants, people showing up to serve sentences, and people jailed whom the prosecutors decided not to charge in court. In some cases, it could be that system spelling errors or data gathering errors kept us from finding cases actually filed. Nonetheless, it was quite surprising that we could find no charges filed against two-thirds of Blacks booked into Monroe County Jail. Unfortunately, we could not gather comparable data on Whites, since there were almost 8 times as many Whites as Blacks.

Sentences by Court

Although this experiment was not designed to permit careful study of specific Circuit Courts in the Monroe County system, we can nevertheless obtain a glimpse of what these data look like in **Table 2**, recognizing the limitation that there are only 50-70 cases per court and that the distributions of crime classes and races are not balanced. A very small number of Class A and B felonies accounts for a large fraction of the sentenced days. They are not distributed evenly across the 6 courts. Thus the data shown in **Table 2** are difficult to draw inferences from. Accordingly, we present a modified version of this table in **Table 3**, in which we have excluded all Class A and B felonies.

Table 2
Sentence Length by Court and Race
for *All Classes of Crimes*

Circuit Court Number	Blacks		Whites		Combined		<i>m</i>	# of A and B Felonies
	<i>m</i> sent	# cases	<i>m</i> sent	# cases	<i>m</i> sent	# cases		
1	114	<i>33</i>	54	<i>29</i>	87	<i>62</i>	2	
2	201	<i>20</i>	290	<i>39</i>	260	<i>59</i>	4	
3	213	<i>31</i>	86	<i>23</i>	159	<i>54</i>	4	
4	124	<i>32</i>	83	<i>20</i>	108	<i>52</i>	3	
5	337	<i>25</i>	94	<i>37</i>	192	<i>62</i>	4	
6	178	<i>38</i>	71	<i>34</i>	127	<i>72</i>	3	

Table 2: Bold type shows the mean sentence length (*m* sent) in days for Black and White defendants, and for both sets combined. The numbers in italics are the numbers of cases. The rightmost column shows the number of A and B Felony cases for each court.

Table 3
Sentence Length by Court and Race
Excluding Class A and B Felonies
(Number of Cases in *Italics*)

Circuit Court Number	Blacks		Whites		Combined		<i>m</i>
	<i>m</i> sent	# cases	<i>m</i> sent	# cases	<i>m</i> sent	# cases	
1	27	<i>31</i>	54	<i>29</i>	41	<i>60</i>	
2	11	<i>17</i>	163	<i>38</i>	116	<i>55</i>	
3	41	<i>28</i>	57	<i>22</i>	48	<i>50</i>	
4	29	<i>30</i>	68	<i>19</i>	44	<i>49</i>	
5	34	<i>22</i>	96	<i>36</i>	72	<i>58</i>	
6	76	<i>36</i>	51	<i>33</i>	64	<i>69</i>	

Table 3: Bold type shows the mean sentence length (*m* sent) for Black and White defendants in each Circuit Court and for both sets combined. The numbers in italics are the numbers of cases.

When all classes of offense are examined in Table 2, five of the six courts gave sentences that are on average longer for Blacks than for Whites. When A and B Felonies are omitted in **Table 3**, however, all but one court had shorter average sentences for Blacks than for Whites. And in every court, the average sentence length for Blacks dropped dramatically. This follows from the high proportion of those charged with Class A and Class B felonies who are Black ($n=15$; 75%) as compared to White ($n=5$; 25%).

Discussion

This particular set of data suggests that the perception of longer average executed sentences for Blacks is accurate. There are two general issues to discuss, representing two major tasks of the criminal justice system: sentencing and charging.

Sentencing.

On the basis of the data set we have here, it does not appear that Blacks receive longer sentences than Whites for the same class of crime. The longer overall mean sentence for Blacks results from the greater number of Blacks charged with Class A and B Felonies. Since we have 7 Blacks charged with narcotics trafficking but only 1 White, we cannot draw meaningful comparison between typical sentences for Class A Felony drug dealing. So, although the mean Black sentence in our sample is about 50% longer than the mean White's (187 days vs. 123, Table 1), this is apparently due entirely to the far greater number of Class A and B Felony cases brought by police and prosecutors against Blacks than Whites.

Charging

1. Narcotics Dealing Arrests. Why were there so many more Blacks charged with Class A Felony narcotics dealing than Whites? Do Blacks really do many times as much dealing as Whites? The probation statistics presented in the Annual Report of the Monroe Circuit Court for 1998 suggest that the rate of illegal substance use is roughly the same for Blacks and Whites in our county, in that the number of Black and White probationers is in close proportion to their population in the county. This is not surprising since it is consistent with national data, as reflected in US Dep't of Health and Human Services' *'National Household Survey on Drug Abuse – 1992'* (US Government Printing Office 20-21, 1994). The use of illicit drugs by Blacks and Whites nationwide has been shown to be nearly the same for several generations – roughly 10% of both populations (despite the impression one gets from politicians and the media that usage by Blacks is greater than Whites). Since there are 30 Whites for every Black in Monroe County, we would expect 30 White drug dealers for every Black one, if we examined all Whites and Blacks. One would expect that at least 90% of the drug dealers in Monroe County would be White, in proportion to the population and their proportion of drug use. Keeping in mind that our data on drug prosecutions comprise a small portion of Whites jailed, we still must wonder why 7 out of 8 drug-dealing charges in our sample were against Blacks – an equal number of Blacks and Whites would be expected. These data may imply that there is disproportionate targeting of Black drug dealers over White ones by law enforcement.

The hypothesis of disproportionate targeting of Blacks in police work and/or prosecution would also be quite compatible with national crime statistics. The rate of arrests for drug crimes generally shows very large differences between the races. Indeed, roughly 90% of all drug arrests in the areas of the US in which it was examined during the 1980s and early 1990s were of Blacks, despite roughly equal rates of drug use (Donziger, Steven (ed.) *The Real War on Crime: The Report of the National Criminal Justice Commission*. Harper-Row, 1996, pp.116-117). Since these drug-dealing crimes lead to average sentences of almost 6 years in Monroe County, they account for much of the overall disparity in mean sentence in these data. In our view, the

possibility of race-based investigation and arrest practices by the police concerning drug dealing deserves further study.

2. *Proportion of Jail Bookings.* Another important issue is this: Blacks constitute 10.74% of Monroe County jail bookings, yet comprise only 3% of the population of Monroe County (Appendix C). This implies that Blacks are three times more likely to be arrested than Whites. This disparity in arrest rates also merits further study. We have grave doubts that Blacks are three times more likely to commit crimes than Whites in Monroe County.

3. *Bookings Without Prosecution.* A further cause for concern is the number of arrests that do not lead to filing of charges. We found charges filed against only 1/3 of Blacks who were booked (179 charges found out of 522 bookings). These data suggest the possibility that Blacks may frequently be arrested when there is no substantial likelihood that there will be a successful prosecution. (We do not know the degree to which this is true of Whites.) This suggests the possibility that police may use arrests where no prosecution is likely as a form of harassment of Black citizens (and possibly of other citizens as well).

This pattern of arrest followed by dropped charges is not only a matter of personal embarrassment, inconvenience and expense, plus the grim reality of spending a night in jail. The arrest also creates a criminal record. So if any of these individuals show up in the court system again and are convicted of some crime, prosecutors and judges can use the record of previous arrests (even without any subsequent prosecution) as a factor that contributes to increasing the length of the sentence. It appears that a far higher proportion of Blacks is put at such a disadvantage than Whites.

4. *Leniency in sentencing?* We should point out that the shorter Misdemeanor and D, C and B Felony sentences for Blacks, and the significantly greater number of Blacks with zero day misdemeanor sentences, do not necessarily reflect any leniency toward Blacks. Since Blacks are more than three times as likely to be arrested as Whites, they may be arrested more frequently for conduct for which a White might not be arrested at all. Lack of prosecutorial merit may then be recognized by the prosecutor during pre-trial procedures, and the cases dropped. This process of meritless arrest and eventual dismissal by the Prosecutor may well explain some or all of the shorter sentences shown for Blacks for most classes of crimes. Our data here are clearly inadequate to explore this important issue satisfactorily, but to get the necessary data is very difficult unless the court system routinely records the needed information.

Recommendations

1. We consider it a mistake that the Monroe County Court system maintains no readily useable racial statistics. The only way to determine if bias is present in the various ways we have pointed to is to be able to study how Blacks and Whites are charged and how they are sentenced. But we could only make our very limited study of 361 cases through the exertion of over 300 hours of volunteer effort, many of which were spent gathering data in the Court Services Office. We strongly believe that the County Court System should maintain a searchable, publicly

accessible database readily available to the criminal justice system and to the public. For each case disposed of, the record should include:

- (a) race (using a standard set of categories and criteria), (b) charges filed, (c) crimes for which the defendant was convicted, (d) any executed, suspended and revoked sentence data, (e) cross references to other cases pending against the defendant at time of resolution, and (f) cross references to jail booking numbers and police report incident numbers.

Inclusion of race in court records would parallel the practice of the Monroe County Sheriff, the Monroe County Probation Department and the State Department of Corrections. We believe there is essentially no risk of such data being abused. Much more data should be gathered and further study of these issues is clearly needed.

2. It is imperative that investigations be undertaken concerning racial profiling, examining (a) the differential arrest rates among Blacks and Whites in Monroe County, and (b) the apparent difference in rates of prosecution of White and Black narcotics dealing offenses.
3. We recommend establishing a Racial Justice Task Force charged with ending discrimination in the Monroe County criminal justice system. Our Committee will coordinate establishing it. Its members should include a judge, a prosecutor, a police officer, an attorney who is not a prosecutor, an NAACP representative, and a representative of our Study Committee. Half of the members should be from minority communities. All members should be committed to equal treatment for all who come in contact with our criminal justice system, regardless of race, religion, ethnicity, gender, sexual preference or economic circumstance. The Task Force should:
 - Be in operation by March 31, 2001
 - Establish a Racial Justice plan by March 31, 2002.
 - Supervise its implementation through March 31, 2004.
 - File a final report by April 30, 2004, and disband.

Respectfully submitted,

The Criminal Justice Study Committee of the NAACP and the UU Task Force

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Appendix A

Monroe County Criminal Procedures

Those who do not work with the criminal justice system might benefit from an overview of its operations and some explanation of the relevant technical terms.

Crimes are categorized by length of possible sentence. ***Misdemeanors*** (Operating While Intoxicated) carry various sentence lengths up to one year. The presumptive felony sentences, and an example of such a crime are: ***Class D Felonies***, 1.5 years (obstruction of justice); ***Class C Felonies***, 4 years (timber spiking) ; ***Class B Felonies***, 10 years, (sexual misconduct with a minor by one over 21); ***Class A Felonies***, 30 years (Dealing over 3 grams of cocaine). Murder carries a 55 year sentence, but there were no murders in our data set.

Police arrest people they believe committed crimes. Six police agencies acting under State of Indiana authority routinely operate in Monroe County. When an arrest is made the defendant might be released immediately and summoned into court, or might be taken to jail. The Sheriff ***books*** the defendant into jail by assigning a number and recording the ***charges*** and identifying information, including height, age, Social Security Number, date of birth and race.

The Board of Judges has established a **bond** schedule. For instance, a defendant charged with a Class A Misdemeanor must post a cash bond of \$500 and a surety bond of \$500. A defendant charged with a Class A Felony must post a cash bond of \$500 and a surety bond of \$50,000. The defendant pays the bondsman 10% of the surety bond amount, and gets none back. The cash bond is posted with the Clerk, and is returned at the end of the case. However, if the defendant is convicted, the cash bond is first applied to court costs, fines and probation users fees. Most people bond out of jail in less than 24 hours.

After arrest, the police officer ***files a case report*** with the Prosecutor's Office. A Deputy Prosecutor reviews the case and decides what charges, if any, will be filed. The ***charges are filed*** with the Clerk's office. Each case is assigned to one of the six courts with general criminal jurisdiction. The court assignment is made randomly. (Circuit Court 7 handles all juvenile delinquency cases, and no adult criminal cases.)

The defendant must first appear in court at an ***Initial Hearing***, where rights are explained and a plea of guilty or not guilty is entered. For those not pleading guilty, pretrial conference dates and a trial date are set. The Prosecutor is then required to provide ***discovery***, which includes case reports filed by the police, copies of witness statements, lab reports, etc. The Public Defender's

Office is appointed for indigent defendants who want a lawyer. (The Public Defender's Office handled about 40% of the criminal cases filed in 1998.)

Before the initial plea is taken, however, many cases are placed in the *Pre-trial Diversion Program (PDP)*. This is available to first time arrestees charged with nonviolent misdemeanors, such as public intoxication or shop-lifting. It is not available for Operating While Intoxicated. Those participating in PDP pay the Prosecutor's Office a fee of up to \$300 and the case is dismissed. However, if the defendant is re-arrested within one year the charges may be refiled.

In 1998, 5364 criminal cases were disposed of. Of these, 3384 were dismissed, some of those participating in the PDP program. Another 68, barely 1%, were tried by either a judge or a jury. A total of 1709 were disposed of through guilty pleas, many of which resulted from plea bargains. *Plea bargaining* takes place between the Initial Hearing and the trial, concentrated around pre-trial conferences. It is through plea bargaining that the defendant's side of the case is first considered by the prosecution. Typically, the actual conviction is for a crime less serious than that originally charged. Usually a jail sentence well below the maximum is also specified. This being the case, there is a natural tendency for the prosecution to "overcharge" initially, leaving room for movement during the negotiation process.

When a plea agreement is reached it is presented to the judge, who can accept or reject it. Most are accepted, though they are modified to meet the judge's requirements with some frequency. Sentences may include *finer and/or jail time*. Jail time can be *suspended*, in which case the person doesn't actually go to jail, or *executed*, in whole or in part. The defendant actually goes to jail for any executed time. Defendants are given credit for any time they serve awaiting release from jail when arrested.

A defendant with suspended jail time is placed on *probation*. Typically the Defendant must attend monthly meetings with a probation officer, provide drug and alcohol screens, participate in counseling, and obey the law. A defendant who fails these conditions may have all or part of the suspended sentence *revoked*, and be placed in jail.

Those serving executed jail sentences earn *two days credit for each day served*, as long as they obey jail rules. Since defendants are given two days credit for the day of their arrest, there were no 1-day sentences in our data. (See **Figure 1**). Those serving sentences of less than a year usually stay in Monroe County. Sentences over a year are served through the Indiana Department of Corrections.

Appendix B

Note on Statistical Tests

While the average sentences we have found are interesting and informative, virtually none of the differences observed reached the level of statistical significance at the 95% confidence level. That is, using routine statistical tools, we were *not* able to conclude that there is a greater than 1 in 20 chance that the differences in sentence length did not occur by chance. When we examined our collected data it became clear that the standard variance analyses used for most statistical

work were inappropriate for the data. Variance analysis is designed for data that has most cases grouped around the average value (such as human heights or weights). Our sentencing data didn't fit this pattern. Most people arrested spent no time in jail after the date they were booked and released from jail. Other sentence lengths occurred sporadically up to 20 years. There were no people sentenced to most of the possible days (or weeks or months) of sentence length. So instead of a "bell curve", **Figure 1** shows we had a high spike at the short sentence-length end and a nearly flat distribution from there on out. We found no statistical tool designed for analyzing statistical significance in data like these. We felt, nevertheless, that the data raise questions of sufficient public importance that we should make the best inferences we are able to and publish the results.

However, one finding did meet standards of statistical significance: for Misdemeanors, a chi-square test showed that Blacks received more sentences of zero days than Whites. ($\chi^2=17.45$, degrees of freedom = 1, probability < 0.0001.)

Appendix C Census Information

Population of Monroe County, Indiana in 1998

	White	Black	Other	Total
Population	109,089	3,449	4031	116569
% of Total	93.58%	2.96%	3.56%	100%

Data from the Indiana University Business Research Center with support by the Indiana Department of Commerce. www.stats.indiana.edu

Figure 1

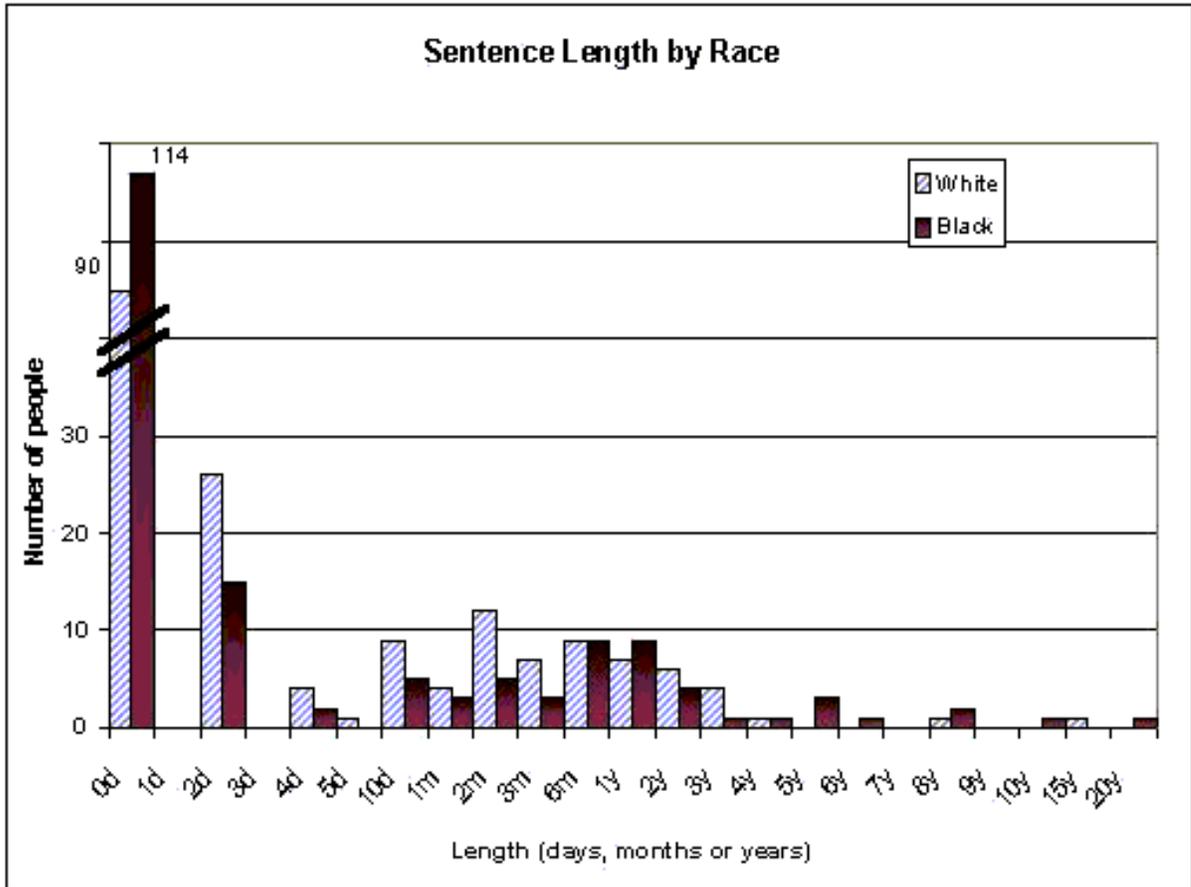


Figure 1: The distribution shows the frequency of occurrence of Sentence Lengths for Blacks and Whites in our data sets (and ignoring the class of crime charged). Notice that the vertical axis showing Number of Cases in each category of sentence length has been shortened for the 0-days sentence. The horizontal axis is highly nonlinear (since using only days has the range 0 to 7300): the first 6 categories are in days, then 1 month, 2 mo , 3 mo and 6 mo., then 1 year, 2 year, etc. until 10 yrs, then it jumps to 15 years and 20 years.

APPENDIX B

Study Methods

2003 Report from the Monroe County Racial Justice Task Force

The 2001-2003 Monroe County Racial Justice Study seeks to explore the issue of race in the Monroe County Justice system. This study draws its sample from 966 of the 5092 bookings recorded in the Monroe county jail in 2000. The 966 bookings consist of *all* 483 black bookings and 483 white bookings, which were selected randomly for comparative purposes.

Each case in this study begins with a jail booking, which is followed through to its termination. First, every booking where an individual's race was entered as black by jail staff was selected for the study. Then, an equal number of white bookings was selected randomly. Therefore, all black bookings in 2000 are compared to a random sample of an equal number of white bookings. The distribution of bookings per month is offered in Table 1.

The jail booking logs provided the name, age, marital status, booking and release date, booking charge, and jail number for each booking. The jail number is a unique identification number assigned to an individual upon being booked into the Monroe County jail. The last three digits of the jail number indicate the number of times that individual has been booked into the jail, with 000 being assigned upon the first booking. These last three digits of the jail number were used to collect data on the number of Monroe County prior bookings for individuals represented in this analysis.

The bulk of the data collected for this study was gathered from the prosecutorial files maintained by the Monroe County Prosecutor's office. There were 298 black bookings for a misdemeanor or felony, and 357 white misdemeanor or felony bookings (see Table 3 in the General Findings section). Those cases were selected for further analysis. The name and booking charge representing each case in this study was used to locate that case's corresponding file in the prosecutor's office. As Table 2 indicates, there were 241 black and 319 white misdemeanor or felony cases in which it could be determined that a formal charge ensued, and the associated file was available for examination during this study. Thirty-one black bookings with a misdemeanor or felony booking charge did not result in a charge by the prosecutor's office, and 23 white bookings were also never formally charged. However, the incident numbers associated with those bookings did allow information on the arresting agency, depiction of race in the police report, and initial complainant status to be gathered from the police reports, which are maintained in the records of the prosecutor's office.

For the 241 black and 319 white misdemeanor or felony cases that did result in a formal charge and for which a file was available, the contents of the file used in this study include the charging sheet, police report, work product sheet (containing the disposition, sentence, arresting officer, and prosecutor information at sentencing), and negotiated plea agreements, or pretrial diversion forms when applicable. In some instances when files contained missing, contradictory, or unclear information for particular variables, that information was corroborated or filled in using

the county's Judicial Tracking System, a co-defendant file, or subsequent file for that individual that might contain information about the case in question. To determine if and how race was depicted in the police report, for the variable describing race in police report, the narrative of the report was examined to determine whether or not the arrestee's race was mentioned, and if so, whether it was stated to be black or white.

A variable describing the status of the initial complainant was also derived from the narrative of the report. Six basic categories were determined for this variable: officer-initiated arrests, commercial complainants, government oriented initiation, private complaints, domestic complaints, and dispatch. Commercially-initiated arrests were determined to be those where an individual acting in association with a commercial establishment requested the services of the police. Privately-initiated arrests were distinguished from domestically-initiated arrests dependent on the location where the call for service originated and the relationship of the requestor for service to the arrested person. For example, arrests were coded as domestically-initiated when a call was made from within a household by a member of that household. If a neighbor overheard a domestic disturbance and called for assistance, the incident was coded as a privately-initiated call because it originated from outside the residence by a non-member of the household.

In cases where the arrest was not officer-initiated and it could be determined that there was a call for service, the case was coded as dispatch to indicate that a complaint was lodged, but its origin could not be determined. The category of government institutions as initial complainant was constructed to include public institutions, such as Indiana University, authoritative entities, such as a court (e.g., issuing an arrest warrant when the primary reason for officer contact with the suspect was the warrant), other law enforcement agencies calling for backup, or police using an informant's tip. Cases originating on the Indiana University campus as a public institution were coded as government-initiated arrest when the initial complainant was acting in his or her capacity as a representative of the University, e.g., when a residential advisor initiated police action in response to maintaining order in a dormitory.

When offenders were convicted of a charge either through a guilty plea, guilty plea pursuant to a negotiated plea or via a straight conviction *and* a sentence to incarceration was given by the court, that sentence to incarceration was recorded in days. The number of days suspended from that sentence was also recorded. The executed sentence was considered the number of days sentenced to incarceration less the number of days suspended from that sentence.

APPENDIX C

Glossary

Monroe County Criminal Justice Procedures and Terms: An Overview

Those who do not work with the criminal justice system might benefit from an overview of its operations and some explanation of the relevant technical terms.

Crimes are categorized by length of possible sentence. *Misdemeanors* (e.g., disorderly conduct; operating while intoxicated) carry various sentence lengths up to one year. The presumptive felony sentences, and an example of such a crime, are: *Class D Felonies*, 1.5 years (obstruction of justice); *Class C Felonies*, 4 years (stalking while threatening bodily injury; timber spiking); *Class B Felonies*, 10 years, (sexual misconduct with a minor by one over 21); and *Class A Felonies*, 30 years (dealing over 3 grams of cocaine). *Murder* carries a presumptive 55-year sentence.

Police make arrests when they believe a crime has been committed or as otherwise required, such as serving a warrant. While our study classifies arrests as either officer-initiated or arising from five other sources, it should be understood that all arrests were made by police agencies, regardless of whether the officer initiated the arrest or responded to a 911 call or served a warrant. Six police agencies acting under State of Indiana authority routinely operate in Monroe County. When an arrest is made, the defendant might be released immediately and summoned into court, or, in the alternative, taken to jail. The Sheriff **books** the defendant into jail by assigning a number and recording the **charges** at arrest and identifying information, including height, age, Social Security number, date of birth and race.

The Board of Judges has established a **bond** schedule. For example, a defendant charged with a first offense Class A Misdemeanor is usually released without posting any bond. A defendant with a prior Monroe County arrest record charged with a Class A Misdemeanor must post a *cash bond* of \$500 and a *surety bond* of \$500. A defendant charged with a Class A Felony must post a cash bond of \$500 and a surety bond of \$50,000. The defendant pays the bondsman 10% of the surety bond amount and gets none back. The cash bond is posted with the Clerk and is returned at the end of the case. However, if the defendant is convicted, the cash bond is first applied to court costs, fines and probation users' fees. Most people bond out of jail in less than 24 hours. Some stay weeks or months.

After arrest, the police officer *files a case report* with the Prosecutor's Office. A Deputy Prosecutor reviews the case and decides what charges, if any, will be filed. The *formal charges* are filed with the Clerk's office. Each case is assigned to one of the six courts with general criminal jurisdiction. The court assignment is made randomly. (Circuit Court 7 handles all juvenile delinquency cases and no adult criminal cases.)

The defendant must first appear in court at an **Initial Hearing**, where rights are explained and a plea of guilty or not guilty is entered. For those not pleading guilty, pretrial conference dates and a trial date are set. If requested, the Prosecutor is then required to provide **discovery**, which includes case reports filed by the police, copies of witness statements, lab reports, etc. The Public Defender's Office is appointed for indigent defendants who want a lawyer. (The Public Defender's Office handled about 23% of the criminal cases filed in 2000.)

Before the initial plea is taken, however, many cases are placed in the **Pre-trial Diversion Program (PDP)**. PDP is available to first time arrestees charged with nonviolent misdemeanors, such as public intoxication or shoplifting. PDP is not available for Operating While Intoxicated. Those participating in PDP pay the Prosecutor's Office a fee of up to \$300. After completing mandatory community service/road crew, attending related educational classes, paying restitution and other case-specific requirements, the case is dismissed. However, if the defendant is re-arrested within one year, the charges may be re-filed.

According to the 2000 Monroe Circuit Court Annual Report, 8,811 criminal cases were filed, and 6,276 were disposed of. Of these cases, 3,884 were dismissed, with some defendants participating in the PDP program. Another 40 cases, fewer than 1%, were tried by either a judge or a jury. 2,336 cases were disposed of through guilty pleas or admissions, many of which resulted from plea bargains.

Plea bargaining takes place between the dates of arrest and the trial and is concentrated around pre-trial conferences. When a plea agreement is reached, it is presented to the judge, who can accept or reject it. Most plea agreements are accepted, although these agreements are modified to meet the judge's requirements with some frequency. Sentences may include **finest and/or incarceration time**. Incarceration time can be **suspended** (in which case the person is not actually incarcerated) or **executed**, in whole or in part. The **executed sentence** is the number of days sentenced to incarceration minus the number of days suspended. The defendant is incarcerated for any executed time. Defendants are given credit for any time they serve awaiting release from jail when arrested.

A defendant with suspended jail time is placed on **probation**. Typically the defendant must attend monthly meetings with a probation officer, provide drug and alcohol screens, participate in counseling, and obey the law. A defendant who fails these conditions may have all or part of the suspended sentence revoked and be re-incarcerated.

Defendants serving executed jail sentences **earn two days credit for each day served**, as long as they obey institutional rules. Since defendants are given two days credit for the day of their arrest, there were no 1-day sentences in our data. Those serving sentences of less than a year usually stay in the Monroe County jail. Sentences over a year are served through the Indiana Department of Corrections at state facilities outside of Monroe County.

Glossary

Statistical Concepts: Means and Medians

The mean is the average of a set of numbers. The median is the number with half the cases above it and half below it. Both are measures of central tendency. With a bell-shaped curve, the mean and median will be close, so there is little risk of confusion. However, when the data is asymmetrical, the median and mean can be quite different. These two measures each provide a method of analyzing data. Depending on the circumstances, one may be more useful or informative than the other.

In our study, the "days executed" data is "spiked" near the low values. For instance, in Table 12 (Mean and median days sentenced to incarceration for misdemeanors), more than 50 percent of both black and white defendants were given two days credit for their one day in jail when arrested and received no additional executed time. Thus, the median number of "days executed" for both groups was 2. However, some defendants received longer sentences. Table 12 shows that the average or "mean" executed sentence for blacks was 36.3 days, while the average or "mean" executed sentence for whites was 4.7 days. The difference between these two averages or "means" is considerable. Both figures help the reader understand the data. Neither is the "right" or exclusive measure. When data is "spiked" at one end, it is particularly useful to know both the mean and the median.

Means are particularly susceptible to impact by extreme cases. Table 19 (Mean and median days sentenced to incarceration for A and B felonies) gives a dramatic example of such an extreme case or an "outlier". One black male received a 75-year sentence for attempted murder. With his sentence included, the mean executed sentence for blacks was 3,295.9 days, and the median executed sentence was 388 days. With his sentence excluded, the mean executed sentence for blacks was 638.1 days, and the median sentence was 224 days. (In this same table, the mean executed sentence for whites was 1,429 days, and the median executed sentence was 1460 days.) Thus, while the mean sentence for blacks in this example indicates that blacks received proportionately much longer sentences for A and B felonies than whites when the 75-year sentence was included (3,295.9 days vs. 1429.8 days), the median sentence shows instead that blacks received considerably shorter sentences than whites (388 days vs. 1460 days). In this instance, the median is a more useful guide to analyzing data, although the small number of cases should make us hesitant to draw any strong conclusions.

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